

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES

## CONTRACT AMENDMENT

**Contractor:** FIRST DATA GOVERNMENT SOLUTIONS, LP  
**Contractor Address:** 11311 CORNELL PARK DRIVE, SUITE 300, CINCINNATI, OH  
45242  
**Contract Number:** 999FDG-ITS-01 / 08DSS7402TE  
**Amendment Number:** A8  
**Amount as Amended:** \$10,110,050  
**Contract Term as Amended:** 09/01/08 - 12/31/15

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The contract between **First Data Government Solutions, LP** (the Contractor) and the Department of Social Services (the Department), which was last executed by the parties and approved by the Office of the Attorney General on 10/17/13, is hereby further amended as follows:

1. The total maximum amount payable under this contract is increased by **\$4,666,140.00 from \$5,443,910.00 to \$10,110,050.00**. Payment for services covered by this amendment shall be billed on a time and materials basis in accordance with Exhibit A to this Amendment "Change Order 4 – QA Services for ImpaCT – Staffing and Hourly Rates" attached hereto and made a part of this amendment.
2. The effective date of this Amendment is October 1, 2013.
3. In addition to the work already being performed, the Contractor shall provide Change Order 4 - **Quality Assurance (QA) Services for the DSS Eligibility Management Services ("EMS") Replacement System (hereinafter referred to as "ImpaCT")**.
  - A. OVERVIEW: The Contractor shall verify that ImpaCT is built in accordance with the Department's design, development, and implementation (DDI) contract with Deloitte (hereinafter referred to as the "DDI Contractor"); is in alignment with the State's vision; and that a high standard of quality is met throughout the project lifecycle. Specifically, the Contractor shall:
    1. Review and assess the work plan, baseline requirements documents, products, and deliverables that are outcomes of DDI activities performed by DDI Contractor and DSS staff to ensure requirements are met as well as traced through design, development, testing, and implementation. The Contractor shall:
      - i. Provide recommendations to enhance the overall quality and robustness of the deliverables; update and examine the Requirements Traceability Matrix to ensure there are no orphans or incomplete requirements; analyze work

plans and schedules; and shall support the Department in User Acceptance Testing to not only verify requirements are met, but also to prove the system fully supports end users and residents seeking services, and adheres to the guiding principles of EMS Replacement design.

2. Evaluate the DDI Contractor's test plans, test scripts, and test results to ensure they are complete, well documented, and relevant to the DDI of the EMS Replacement.

B. **SPECIFIC TASKS:** The Contractor shall:

1. Provide support to the Department on the Joint Application Design (JAD) sessions for ImpaCT. The Contractor shall:
  - i. **Identify JAD Session Participants** –The Contractor shall work with DSS to identify participants and assist DSS and the DDI Contractor in the development of the outreach approach, rosters, supporting documents, and detailed communications.
  - ii. **Provide JAD Orientation** – The Contractor shall provide orientation and training to prepare participants for what is expected during and following the JADs. Participants will gain general knowledge of the requirements validation process, understand the session documents and how they work, discuss typical requirements validation pitfalls, obtain definitions and descriptions of typical business and stakeholder nomenclature to give participants a common vocabulary, and understand the project's deliverable review process and timelines.
  - iii. **Validate Requirements Against Health and Human Services Business Architecture (HHSBA)** –The Contractor shall, during the JAD sessions, utilize the Contractor developed HHSBA tool to establish a common framework for documenting the core business functions of the state's systems and to help identify common business functions across programs or agencies. This will help DSS identify potential candidates for reuse/leverage by providing a clear view of the assets the State has or has planned that could potentially provide functionality needed by another program or system.
  - iv. **Requirements and Design Validation** – The Contractor shall assist the business user with clarifying and "fleshing" out requirements; understanding the importance of timely decisions and the DDI Contractor's assessment of cost and requirements feasibility; setting priorities; reviewing prototypes and JAD-related documentation; and communicating changes to the requirements and design as soon as they are known.
    - a. The Contractor shall work with DSS to ensure that the DDI Contractor is clear about the business and objectives of DSS: has provided a feasible JAD schedule, which provides for an adequate review and feedback timeframe; structures the JAD materials into

clear and complete specifications to avoid misconceptions and confusion; provides the business users with ideas and alternatives for both requirements and design; presents opportunities to adjust requirements and design to permit reuse of existing components; and provides a good-faith estimate of costs, impacts, and trade-offs when a change is requested.

- b. The Contractor shall provide the Department with an in-depth review of all requirements and design documentation to ensure they meet the Department's needs.
  - c. The Contractor shall validate all mapping documentation, specifically the Requirements Traceability Matrix (RTM) to ensure complete traceability. The requirements and design documentation will be evaluated to ensure the solutions are efficient and feasible, and fully satisfy the DSS requirements.
  - v. **JAD Session Scheduling, Performance, and Issue Documentation** – The approach and timeline for the ImpaCT JADs will be documented by the DDI Contractor. The Contractor shall review the plan to make sure it includes a description of the methodology and tools used to capture, document, and maintain all functional and non-functional requirements gathered during the sessions.
2. Assist the Department with the development of a Resource Management Plan for the entire EMS Replacement Project, including the specific level of effort needed for JAD session participation. The Resource Management Plan serves as a foundation for understanding the roles and responsibilities of project participants, their availability, and planned participation on project tasks. The Contractor shall:
- i. Through their participation in the JAD Sessions, develop a cross section of the current levels of staff (i.e. supervisors, case workers, clerical, hearings management, quality control specialists, etc.), and a cross section of program expertise. The Contractor shall look for and identify opportunities to make resource allocation easier, more satisfying for staff, and better for the overall client experience.
  - ii. The Contractor shall utilize the JAD Sessions to understand the pain points in the business process to assist in the determination of priorities. Examples of pain points typically identified include:
    - a. Redundant practices and/or multiple tracking mechanisms
    - b. Duplicative activities such as data entry and re-entry
    - c. Ambiguous timeframes for completing activities

- d. Informal organizations that exist as a workaround to current organizational inefficiencies
  - e. Unrealized strengths
  - f. Mismanaged problem areas
  - g. Similarities, differences and/or shortfalls in electronic tools that inhibit efficiency
- iii. The Contractor shall identify any "Quick Wins" which can return early benefits and promote organizational and individual willingness to accept change of greater magnitude later. "Quick wins" are generally process and information management modifications that are not dependent upon development of new, large-scale automation systems.
3. Detailed reviews of the individual Work Plans, as well as the master ImpaCT Project Work Plan. The Contractor shall identify dependencies across Work Plans which is essential in recognizing impacts to the overall schedule if the timelines for a particular module changes.
4. Participate in Design Meetings: The Contractor shall provide an in-depth review of the design documents to ensure they meet the Department's needs. Specifically, the Contractor shall:
- i. attend selected design sessions;
  - ii. review and assess the outputs from each session against an established set of acceptance criteria;
  - iii. assess whether the requirements mapping documentation is in place and complete;
  - iv. evaluate the design to verify whether the proposed solution is feasible, efficient, and completely satisfies the Department's requirements; and
  - v. evaluate design work products for efficiency, proper flow and adherence to standards.
5. Support the comprehensive Risk Management process which is currently in place and use the Project's risk and issue tracking tool JIRA. The Contractor shall:
- i. Identify project risks;
  - ii. Analyze project risks including determining the probability of occurrence to identify which risks warrant the highest level of attention;
  - iii. Develop a plan to turn risk information into decisions and actions (both present and future). Specifically, the Contractor shall develop actions to

address individual risks, prioritize risk actions, establish an owner to address each risk, and create an integrated risk management plan.

- iv. Track the project risks. Specifically, the Contractor shall monitor the status of risks and the action taken to ameliorate risks; provide risk metrics to enable the evaluation of the status of risks themselves and of risk mitigation plans.
  - v. Control the project risks. Specifically, the Contractor shall utilize the project management processes to control risk action plans, correct for variations from plans, respond to triggering events, and improve risk management processes.
  - vi. Communicate the project risks. Communicate risks to and between the appropriate organizational levels and entities. Because communication is pervasive, our approach is to address it as integral to every risk management activity and not as something performed outside of, and as a supplement to, other activities.
6. Review, Comment and Provide Recommendations to DDI Contractor Deliverables. The primary purpose of deliverable reviews is not only to ensure each deliverable satisfies all applicable business and technical requirements and conforms to project quality and industry standards, but also to ensure that each deliverable moves the project one step closer to Implementation. The results of the Contractor's deliverable reviews will help the Department understand and measure progress in each area and correspondingly make informed decisions. The Contractor shall:
- i. Work with the DDI Contractor and DSS Project staff throughout the entire deliverable development, review, comment and approval process, beginning with development of the Deliverable Expectation Document (DED) and continuing through submission of a recommendation for deliverable acceptance;
  - ii. Provide input and feedback on a flow basis, allowing recommendations to be incorporated into subsequent versions of deliverables to improve the quality of the final product and to minimize the time associated with final reviews;
  - iii. Use a structured tool to document findings that includes a place for the DDI Contractor to respond with justification if they do not agree with the disposition of a deficiency or corresponding recommendations;
  - iv. Produce thorough Deliverable Review and Assessment Reports that assess the readability, comprehensiveness, accuracy, level of detail and quality of all required deliverables. These reviews will be measured against the standards and requirements delineated in the approved DED;

- v. Produce final Deliverable Review and Assessment Reports in accordance with and established and agreed upon timeframe. The Deliverable Review and Assessment report shall address the following for each of the DDI Contractor's deliverables:
    - a. Adherence to the DED;
    - b. Congruence to the Requirements Traceability Matrix;
    - c. Comprehensive Assessment including Deficiency Trend Analysis;
    - d. Overall Completeness;
    - e. Requirements Traceability to the Specification;
    - f. Summary of Deficiencies Identified;
    - g. Detailed Deficiency Assessments for Both Material and Cosmetic Deficiencies; and
    - h. Recommendation for Acceptance. The Contractor acknowledges and agrees that the Department will the Contractor's recommendation for acceptance as part of the Department's review of DDI Vendor deliverables. Therefore, the Contractor shall clearly define whether their recommendation for approval is unequivocal or tied to specific conditions, such as correcting material and/or cosmetic defects within specific timeframes.
    - i. Re-review and approval. The Contractor shall re-review deliverables with identified material deficiencies. The re-review effort validates that all material deficiencies have been corrected. The Contractor shall continue the reviews until the deliverable is acceptable by meeting all applicable requirements and criteria.
  - vi. Track all DDI Contractor deliverables and the Contractor's deliverable review reports in a single spreadsheet. The tracking spreadsheet shall include the review timeframes for each of the DDI Contractor deliverable to ensure that the Contractor's Assessments have been provided to the Department with ample time to review and assess any recommendations that may have an impact on State deliverable acceptance.
7. Quality Control Testing and User Acceptance Test (UAT) Monitoring. User Acceptance Testing (UAT) determines whether the EMS Replacement satisfies all documented requirements and is ready to implement. The Contractor shall guide the UAT activities on behalf of the ImpaCT Project and maintain management responsibility for successful completion. Specifically, the Contractor shall oversee the execution of pre-defined test scripts, regardless of who performs the testing execution, and shall record all incidents, results and issues. The Contractor shall:

- i. Identify system errors and existing open issues and defects in critical areas of the system as early as possible;
- ii. Identify risks and issues associated with the testing process and schedule to provide recommendations for the mitigation plans;
- iii. Execute UAT scripts that are representative of and that simulate real life examples;
- iv. Establish a basis for assessing the readiness of the EMS Replacement implementation;
- v. Monitor compliance on deliverables against milestones and other stated performance requirements;
- vi. Provide basis for the ImpaCT Project stakeholders to accept test results and to proceed with production deployment;
- vii. Engage with the DDI Contractor to ensure the application and environment are ready for UAT. Specifically the Contractor shall work with the DDI Contractor to confirm their responsibilities in supporting UAT, including:
  - a. Configuration and installation of the hardware and software
  - b. Hardware and software availability and performance
  - c. Application code builds
  - d. Timely correction of defects
  - e. Migration of new code to the test environment
  - f. Database management
  - g. Designating specific staff to provide the support required to keep the test environment fully functioning
- viii. Project Requirement Traceability: The Contractor shall work closely with the Department and the DDI Contractor to ensure that all initial system requirements and any subsequent changes are properly tracked to conclusion using the Requirements Traceability Matrix (RTM). The final version of the RTM will support the State's decision to accept the completed system. The Contractor shall utilize the RTM to establish the format, scope, and system for tracking requirements to ensure that system and software specifications are correct, complete, traceable, and testable. The Contractor shall ensure that the RTM includes the following key elements:
  - a. Assumptions, definitions, tracking approach, and tracking methodology;

- b. Business requirement definition, tracking, traceability, and test verification;
  - c. Technical and functional requirement definition, tracking, traceability, and test verification;
  - d. Full traceability, including forward and backward traceability to ensure that the project is not under or beyond the established scope; and
  - e. Tracing and analysis of the DDI Contractor's deliverables to the Department's RFP Requirements.
- ix. Vendor Testing QA Reviews. The Contractor shall work to ensure that the DDI Contractor's software artifacts, system documentation, test data, and the test plans leads to a robust and complete testing capability. The Contractor shall evaluate key portions of the DDI Contractor's Unit, Integration, System and Regression Testing effort from a functional and technical perspective. Specifically, the Contractor shall:
- a. Review the test schedule and components included for testing to ensure timeliness and comprehensiveness of the Unit, Integration, System, and Regression Testing.
  - b. Review and Confirm Unit, Integration, System, and Regression Test Environment and Tool Configuration. The Contractor shall review the server test environment and tool configurations, on a regular schedule, to verify efficient and consistent testing.
  - c. Evaluate the Unit, Integration, System, and Regression testing approach and processes for script development, execution and results analysis.
  - d. Validate the Test Data including verification that the source and reliability of the data files used in the test effort is representative of real time data.
  - e. Verify and validate the accountability for all requirements as mapped to the appropriate milestone and test scenarios.
  - f. Verify that the Unit, String, and System testing sufficiently addresses the full range of functional and non-functional operations across the system.
  - g. Perform Continuous Test Witnessing which involves monitoring the fidelity of test execution to the specified test procedures and witnessing the recording of test results. The Contractor shall perform test witnessing to determine if the script was executed as planned, the results satisfies the criteria established in the test



script and if the software is of sufficient quality to deploy to next phase.

- h. Documenting Results and Anomalies. The Contractor shall document the test results and will identify discrepancies between actual and expected results.
- i. Track issues for resolution and ongoing assessment within future releases.
- j. Document findings and recommendations in a monthly QA Report.
- k. Validate that the requirements were correctly implemented during the following project stages:
  - 1. Unit Test
  - 2. System Test
  - 3. Integration Test
  - 4. Regression Test
  - 5. User Acceptance Test
  - 6. Conversion Test
  - 7. Performance Test
  - 8. Pilot Test
- x. Management of UAT Procedures and Results. The Contractor shall go through available documentation and online screens to identify test data requirements. Using the functional and test data requirement analysis, the Contractor shall create a test strategy and a detailed test plan to present to the ImpaCT project team for approval, and thereafter share the same with the DDI vendor. The test plan shall include:
  - a. Defined in-scope and out-of-scope activities;
  - b. Critical success criteria and performance measures for the UAT process including entry and exit criteria;
  - c. Defined critical business workflows and approaches to test identified workflows;
  - d. Detailed schedule aligned with the testing efforts of Deloitte's system testing;

- e. Test data management process addressing test data identification/creation and maintenance; and
- f. Overall resource plan outlining on boarding, training and team composition for various phases of UAT. Further, the Contractor shall:
  - 1. Provide guidance for all processes, schedules, testing activities, and staff coordination
  - 2. Provide guidance for the technical and functional testing teams through all UAT activities, and regularly report on progress, deficiencies, and recommendations
  - 3. Coordinate with DDI Contractor to ensure the test environment is fully functional
  - 4. Facilitate the UAT Green Light meetings and provide supporting documentation
  - 5. Conduct the UAT Change Request prioritization session at the conclusion of each UAT
- xi. Work collaboratively with the Department's ImpaCT Team to define the scope of UAT assistance and develop a UAT Plan to guide that effort. The UAT Plan shall, at a minimum, include:
  - a. Section 1: Introduction – This section introduces the UAT effort and identifies test objectives. This section also contains definitions, standards we use such as PMBOK and IEEE for IV&V, and references to other relevant documents.
  - b. Section 2: Scope – This section defines the scope of UAT.
  - c. Section 3: Test Environment – This section identifies the major hardware, software, tools, and telecommunication components and provides an integrated view of the UAT environment.
  - d. Section 4: Staffing, Communication and Responsibilities – This section provides a description of the staff that will be involved in the UAT effort and identifies their roles, normal communication channels, responsibilities, and training needs.
  - e. Section 5: UAT Approach – This section describes the overall methodology First Data will employ during the UAT effort, including approaches and processes for training, preparation and execution. This section shall include: UAT Training; UAT Management including requirements management, defect

management, reporting, UAT results assessment and metrics;  
Execution Functional Testing and Technical Testing.

- f. Section 6: UAT Criteria – This section provides the criteria under which decisions will be made to enter and exit UAT.
  - g. Section 7: Suspension Criteria and Resumption Requirements – This section outlines specific criteria and examples that must be met before testing should be suspended and subsequently resumed.
  - h. Section 8: UAT Tasks and Deliverables – This section presents the key UAT tasks: planning, preparation, training, execution, development of findings and results for the Monthly UAT Status Report and the Final UAT Report.
  - i. Section 9: UAT Schedule – This section presents the test schedule, including tasks, start dates and finish dates associated with planning, preparation, execution, tracking and reporting. Both summary and detailed Gantt charts are included.
  - j. Section 10: Risks and Contingencies – This section provides initial identification of the potential risks and contingencies associated with the UAT effort.
  - k. Attachments and/or Appendices – This section contains additional supporting detail for the UAT Plan. This typically includes procedures, the Requirements Traceability Matrix and sample reports.
- xii. Develop a UAT Procedures Guide to detail the specific approach as a reference manual for the UAT team. The guide will consist of details such as descriptions of goals and objectives of UAT, roles and responsibilities, sample test scenarios/cases. This will act as a guiding document all through UAT execution.
- C. STAFFING: Staffing for this Change Order shall be provided in accordance with Exhibit A to this Amendment “Change Order 4 – QA Services for ImpaCT – Staffing and Hourly Rates” attached hereto and made a part of this amendment. It is mutually agreed that staff provided under this change order shall work 5 days per week minus holidays during the duration of this Amendment. Contractor shall be permitted to alter the staffing plan by receiving prior written approval, email sufficient, from the Department.
- D. PART II – TERMS AND CONDITIONS: The Mandatory Terms and Conditions on pages 11 through and including page 26 of Amendment 7 remain unchanged and in full force and effect.

This document constitutes an amendment to the above numbered contract. All provisions of that contract, except those explicitly changed by this and prior amendments remain in full force and effect.

## SIGNATURES AND APPROVALS

999FDG-ITS-01 / 08DSS7402TE A8

The Contractor IS a Business Associate under the Health Insurance Portability and Accountability Act of 1996 as amended.

### CONTRACTOR – FIRST DATA GOVERNMENT SOLUTIONS, LP



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Chuck Eliassen, *Vice President*

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March 18, 2014

Date

### DEPARTMENT OF SOCIAL SERVICES



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Boderick L. Bremby, *Commissioner*

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3/21/14

Date

### OFFICE OF THE ATTORNEY GENERAL

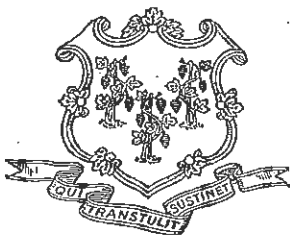


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ASST. / ASSOC. ATTORNEY GENERAL (*Approved as to form & legal sufficiency*)

*Joseph Rubin*

\_\_\_\_\_  
3/25/14

Date



STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES

**CONTRACT AMENDMENT**

**Contractor:** FIRST DATA GOVERNMENT SOLUTIONS, LP  
**Contractor Address:** 11311 CORNELL PARK DRIVE, SUITE 300, CINCINNATI, OH 45242  
**Contract Number:** 999FDG-ITS-01 / 08DSS7402TE  
**Amendment Number:** A7  
**Amount as Amended:** \$5,443,910  
**Contract Term as Amended:** 09/01/08 - 12/31/15

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The contract between **First Data Government Solutions, LP** (the Contractor) and the Department of Social Services (the Department), which was last executed by the parties and approved by the Office of the Attorney General on 10/11/11, is hereby further amended as follows:

1. The total maximum amount payable under this contract is increased by \$1,692,490.00 from \$3,792,490.00 to \$5,443,910.00.
2. The term of the contract is extended for an additional two years and three months, billable on a time and materials basis, and the end date of the contract is changed from 9/30/13 to 12/31/15. All references to a previous end date of 09/30/13 shall be deleted and replaced with an end date of 12/31/15.
3. In addition to the work already being performed, the Contractor shall assist with the following tasks:
  - A. Change Order 2 - ConneCT Project
    - i. Contractor shall hire senior technical resource personnel with critical Telephony Systems design and implementation skills for the ConneCT project in order to: improve overall quality; minimize budget overruns; assess the Department's current telephony systems, data network and cable plant design; support the development of the telephony system requirements and design; and implement the telephony solution.
    - ii. Contractor shall hire a fiscal analyst, as needed, to update the original Cost Benefit Analysis (CBA) for funding and quality risk.
    - iii. Contractor shall hire a senior program/project management expert, as needed, to create a schedule, budget and quality risk assessment for the project management office (PMO), ensure successful completion of the CBA, and support in any Health Insurance Exchange (HIX) /HIE or related tasks requested by the Department.

B. Change Order 3 – ConneCT Project

- i. Contractor shall work collaboratively with qualified personnel from the Department in three critical areas relating to ConneCT: Project Management (PM) support, Project Business Manager support and Technical support.
- ii. Contractor shall hire an Implementation Readiness Lead to work directly with the ConneCT Project Business Manager, the Organizational Change Management (OCM) Team, and other project stakeholder groups to support the implementation and post-implementation of the ConneCT Project automation.
- iii. Contractor shall hire additional staff with critical business analysis skills which are needed to complete the ConneCT project on schedule.
- iv. Contractor shall hire additional Budget and Quality Staff, as needed, with the specialized skills and experience to successfully plan and support a large scale Legacy System conversion for the ConneCT project.
- v. Contractor shall hire additional Budget and Quality Staff, as needed, with the specialized skills and experience to successfully plan and support a large-scale Data/Database conversion for the ConneCT project.
- vi. Contractor shall hire personnel, as needed, with the in-depth knowledge and experience needed to successfully plan and support the Health Care Reform Initiative for the ConneCT project.

C. Health Insurance Exchange (HIX) TIER I - Health Insurance Marketplace (Access Health CT) Independent Verification & Validation (IV&V) Services

- i. IV & V services will provide an independent evaluation of activities throughout the HIX project life cycle. The IV&V vendor will report to the Department and CT HIX Chief Information Officers, working in conjunction with the Project Managers and Integrated Eligibility (IE) Project Management Office (IEPMO). The Project Managers and/or the IEPMO will coordinate communications and distribution of results with the IV&V vendor. IV&V reviews shall be conducted monthly beginning in April 2013. Formal IV&V reports will be provided monthly.
- ii. The State expects the IV&V review to focus on supporting the State's effort to achieve approval by CMS Center for Consumer Information and Insurance Oversight (CCIIO) according to the Agency's "Draft Blueprint for Approval of Affordable State-based and State Partnership Insurance Exchanges." The IV&V vendor will conduct interviews, risk assessments, and issue reports to assist the State in providing assessments to CMS/CCIIO as to whether the designated CT HIX / IE activities in the Blueprint are built and operating as designed and in compliance with documented requirements and within the specified timelines of the certification process.
- iii. Reporting Requirements:
  1. The first IV&V report will be due May 7, 2013, and the scope of the report will cover the kick off through April 30, 2013.
  2. The second IV&V report will be due June 7, 2013, and the scope of the report will cover from May 1, 2013, through May 31, 2013.
  3. The third IV&V report will be due July 5, 2013, and the scope of the report will cover from June 1, 2013 through June 28, 2013.
  4. The fourth IV&V report will be due August 7, 2013, and the scope of the report will cover from July 1, 2013 through July 31, 2013.

5. The fifth IV&V report will be due September 6, 2013, and the scope of the report will cover from August 1, 2013 through August 30, 2013.
  6. The final IV&V report will be due September 20, 2013 (to support the go/no go decision), and the scope of the report will cover from September 1, 2013 through September 20, 2013.
- D. Integrated Eligibility Project (IEP): As a result of the Affordable Care Act, the Department is pursuing a replacement eligibility solution relative to the 90-10 FFP. Contractor will work with the Department to determine the appropriate level of effort for this task. Once CMS approval has been obtained, the parties shall amend this contract to include scope and funding for this project.
4. Staffing shall be provided in accordance with the staffing plan attached hereto and made a part of this amendment. Contractor shall be permitted to alter the staffing plan by receiving prior written approval, email sufficient, from the Department.

A7 Staffing Plan002  
CT DSS MCSO Staff Loading

CT DSS ConnectCT Project  
Proposed First Data Staffing - Change Order 02

Role Type	Position Title	Role Description	Staff Name	Rate	Month	Month	Month	Month	Month	Month	Month	Month	Month	Month	Month	Month	Month	Total Hours	Total Cost	
					Jul-12	Aug-12	Sept-12	Oct-12	Nov-12	Dec-12	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13				
Dedicated	ConnectCT System Support Analyst/Analyst Lead	Support DSS IT Management and Home Medical ID (Connect) system status, IT help, problem and incident development, and Basic Connect/ConnectCT system status and system implementation.	David Gill	\$185	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	\$185,000
As Needed	Sr. Business Analyst - CBALoad	Complete review and revision of Cost Benefit Analysis (CBA) - Public Health Access reports, performance and status for in state and out of state for CBALoad for the DSS Business Analysts.	Chris Sullivan	\$175	0	0	112	100	0	0	0	0	0	0	0	0	0	112	0	\$19,600
As Needed	Sr. Project Analyst - CBALoad	Lead on CBALoad. Work with DSS Business Analysts to review and develop a CBALoad support agency, which will include the local health, Public Health in DSS. Coordinate on CBALoad testing and help agencies to use the system and help with the user interface.	Chris Sullivan	\$155	0	0	84	0	0	0	0	0	0	0	0	0	0	84	0	\$12,924
<b>Total Hours</b>					<b>100</b>	<b>100</b>	<b>264</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>284</b>	<b>0</b>	<b>\$43,524</b>

A7 Staffing Plan003  
CT DSS MCSO Staff Loading

CT DSS ConnectCT Project  
Proposed First Data Staffing  
Change Order 0003

Role Type	Position Title	Role Description	Rate	Month	Month	Month	Month	Total Hours	Total Cost
				Jul-13	Aug-13	Sept-13	Oct-13		
Dedicated	Sr. CCA / ConnectCT Implementation Response Lead	Work closely with the DSS Business Managers to support ConnectCT Application Development through all ConnectCT Project phases, with an implementation planning and readiness focus.	\$155	100	100	100	100	400	\$61,600
Dedicated	Sr. BA / Legacy Technical Architect	Assist in the planning for legacy system conversion and related tasks.	\$185	100	100	100	100	400	\$74,000
As Needed	MDM / Data Conversion Skuen	Assist in the planning for legacy system data conversion and master data management (MDM).	\$135	100	100	100	100	400	\$54,000
As Needed	Health Care Return Expert	Review the current HIX strategy, MTA, assessment and funding options, provide a full assessment report to DSS with recommendations.	\$155	100	100	100	100	400	\$61,600
Dedicated	Senior Database Analyst	Support Application Development through all ConnectCT Project phases and participate in UAT.	\$125	100	100	100	100	400	\$50,000
Dedicated	Senior Business Analyst	Support Application Development through all ConnectCT Project phases and participate in UAT.	\$125	100	100	100	100	400	\$50,000
<b>Total Hours</b>				<b>400</b>	<b>400</b>	<b>400</b>	<b>400</b>	<b>1600</b>	<b>\$247,200</b>



5. The Contractor shall be considered a Business Associate of the Department for the services delivered under this contract, and subject to the HIPAA provisions set forth on pages 14 through 20 of Amendment 2 as revised herein effective September 23, 2013:

**Health Insurance Portability and Accountability Act of 1996.**

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as noted in this Contract, the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract ("Agency") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor is a "business associate" of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), (Pub. L. 111-5, §§ 13400 to 13423)<sup>1</sup>, and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, D and E (collectively referred to herein as the "HIPAA Standards").
- (f) Definitions
  - (1) "Breach" shall have the same meaning as the term is defined in section 45 C.F.R. 164.402 and shall also include an use or disclosure of PHI that violates the HIPAA Standards.
  - (2) "Business Associate" shall mean the Contractor.
  - (3) "Covered Entity" shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
  - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
  - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).
  - (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
  - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
  - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, and includes electronic PHI, as defined in 45 C.F.R.

160.103, limited to information created, maintained, transmitted or received by the Business Associate from or on behalf of the Covered Entity or from another Business Associate of the Covered Entity.

- (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
- (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
- (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
- (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
- (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
- (15) "Unsecured protected health information" shall have the same meaning as the term as defined in 45 C.F.R. 164.402.

(g) **Obligations and Activities of Business Associates.**

- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
- (2) Business Associate agrees to use and maintain appropriate safeguards and comply with applicable HIPAA Standards with respect to all PHI and to prevent use or disclosure of PHI other than as provided for in this Section of the Contract and in accordance with HIPAA standards.
- (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
- (6) Business Associate agrees, in accordance with 45 C.F.R. 502(e)(1)(ii) and 164.308(d)(2), if applicable, to ensure that any subcontractors that create, receive, maintain or transmit protected health information on behalf of the business associate, agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;
- (7) Business Associate agrees to provide access (including inspection, obtaining a copy or both), at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524. Business Associate shall not charge any fees greater than the lesser of the amount charged by the Covered Entity to an

Individual for such records; the amount permitted by state law; or the Business Associate's actual cost of postage, labor and supplies for complying with the request.

- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner designated by the Covered Entity.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created, maintained, transmitted or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary investigating or determining Covered Entity's compliance with the HIPAA Standards..
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner designated by the Covered Entity, information collected in accordance with subsection (g)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate
  - (A) restrict disclosures of PHI;
  - (B) provide an accounting of disclosures of the individual's PHI;
  - (C) provide a copy of the individual's PHI in an electronic health record; or
  - (D) amend PHI in the individual's designated record set,

the Business Associate agrees to notify the Covered Entity, in writing, within five business days of the request.
- (15) Business Associate agrees that it shall not, and shall ensure that its subcontractors do not, directly or indirectly, receive any remuneration in exchange for PHI of an Individual without
  - (A) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and
  - (B) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations

## (16) Obligations in the Event of a Breach.

- (A) The Business Associate agrees that, following the discovery by the Business Associate or by a subcontractor of the Business Associate of any use or disclosure not provided for by this section of the Contract, any breach of unsecured protected health information, or any Security Incident, it shall notify the Covered Entity of such breach in accordance with Subpart D of Part 164 of Title 45 of the Code of Federal Regulations and this Section of the Contract.
- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, or a subcontractor of the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to 45 C.F.R. 164.412. . A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate or its subcontractor. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
1. A description of what happened, including the date of the breach; the date of the discovery of the breach; the unauthorized person, if known, who used the PHI or to whom it was disclosed; and whether the PHI was actually acquired or viewed.
  2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
  3. The steps the Business Associate recommends that Individual(s) take to protect themselves from potential harm resulting from the breach.
  4. A detailed description of what the Business Associate is doing or has done to investigate the breach, to mitigate losses, and to protect against any further breaches.
  5. Whether a law enforcement official has advised the Business Associate, either verbally or in writing, that he or she has determined that notification or notice to Individuals or the posting required under 45 C.F.R. 164.412 would impede a criminal investigation or cause damage to national security and; if so, contact information for said official.
- (D) If directed by the Covered Entity, the Business Associate agrees to conduct a risk assessment using at least the information in subparagraphs 1 to 4, inclusive of (g) (16) (C) of this Section and determine whether, in its opinion, there is a low probability that the PHI has been compromised. Such recommendation shall be transmitted to the Covered Entity within 20 business days of the Business Associate's notification to the Covered Entity.
- (E) If the Covered Entity determines that there has been a breach, as defined in 45 C.F.R. 164.402, by the Business Associate or a subcontractor of the Business Associate, the Business Associate, if directed by the Covered Entity, shall provide all notifications required by 45 C.F.R. 164.404 and 45 C.F.R. 164.406.

- (F) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed of a breach have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
  - (G) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (h) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the HIPAA Standards if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
  - (2) Specific Use and Disclosure Provisions
    - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
    - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
    - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (i) Obligations of Covered Entity.
- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
  - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual(s) to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
  - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

- (j) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Standards if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (k) Term and Termination.
- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (g)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
- (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
- (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
- (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (3) Effect of Termination.
- (A) Except as provided in (k)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (g)(10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.
- (l) Miscellaneous Sections.
- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.

- (2) Amendment. The Parties agree to take such action as in necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, and the HIPAA Standards.

6. The Mandatory Terms and Conditions section of Amendment 2 shall be deleted and replaced in its entirety with the Terms and Conditions below:

## **PART II. TERMS AND CONDITIONS**

The Contractor shall comply with the following terms and conditions.

- A. Definitions.** Unless otherwise indicated, the following terms shall have the following corresponding definitions:
1. **"Bid"** shall mean a bid submitted in response to a solicitation.
  2. **"Breach"** shall mean a party's failure to perform some contracted-for or agreed-upon act, or his failure to comply with a duty imposed by law which is owed to another or to society.
  3. **"Cancellation"** shall mean an end to the Contract affected pursuant to a right which the Contract creates due to a Breach.
  4. **"Claims"** shall mean all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.

5. **“Confidential Information”** shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Department classifies as “confidential” or “restricted.” Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.
6. **“Confidential Information Breach”** shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Contractor, the Department or State.
7. **“Contract”** shall mean this agreement, as of its effective date, between the Contractor and the State for Services.
8. **“Contractor Parties”** shall mean a Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract (e.g. subcontractor) and the Contractor intends for such other person or entity to perform under the Contract in any capacity. For the purpose of this Contract, vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program.
9. **“Data”** shall mean all results, technical information and materials developed and/or obtained in the performance of the Services hereunder, including but not limited to all reports, survey and evaluation tools, surveys and evaluations, plans, charts, recordings (video and/or sound), pictures, curricula, electronically prepared presentations, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the Services performed hereunder.
10. **“Day”** shall mean all calendar days, other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
11. **“Expiration”** shall mean an end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract's term being completed.
12. **“Force Majeure”** shall mean events that materially affect the Services or the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
13. **“Records”** shall mean all working papers and such other information and materials as may have been accumulated and/or produced by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.



14. **“Services”** shall mean the performance of Services as stated in Part I of this Contract.
15. **“State”** shall mean the State of Connecticut, including any agency, office, department, board, council, commission, institution or other executive branch agency of State Government.
16. **“Termination”** shall mean an end to the Contract affected pursuant to a right which the Contract creates, other than for a Breach.

**B. Contractor Obligations.**

1. **Credits and Rights in Data.** Unless expressly waived in writing by the Agency, all Records and publications intended for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the State and the Agency and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify and hold harmless the Agency, unless the Agency or its agents co-authored said publication and said release is done with the prior written approval of the Agency Head. All publications shall contain the following statement: “This publication does not express the views of the [insert Agency name] or the State of Connecticut. The views and opinions expressed are those of the authors.” Neither the Contractor nor any of its agents shall copyright Data and information obtained under this Contract, unless expressly previously authorized in writing by the Agency. The Agency shall have the right to publish, duplicate, use and disclose all such Data in any manner, and may authorize others to do so. The Agency may copyright any Data without prior Notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Agency of such Data.
2. **Federal Funds.**
  - (a) The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Agency shall specify all such requirements in Part I of this Contract.
  - (b) The Contractor acknowledges that the Agency has established a policy, as mandated by section 6032 of the Deficit Reduction Act (DRA) of 2005, P.L. 109-171, that provides detailed information about the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and other laws supporting the detection and prevention of fraud and abuse.
    - i. Contractor acknowledges that it has received a copy of said policy and shall comply with its terms, as amended, and with all applicable state and federal laws, regulations and rules. Contractor shall provide said policy to subcontractors and shall require compliance with the terms of the policy. Failure to abide by the terms of the policy, as determined by the Agency, shall constitute a Breach of this Contract and may result in cancellation or termination of this Contract.
    - ii. This section applies if, under this Contract, the Contractor or Contractor Parties furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the Agency.
  - (c) Contractor represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs.
  - (d) Contractor shall not, for purposes of performing the Contract with the Agency, knowingly employ or contract with, with or without compensation: (A) any individual or entity listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs; or (B) any person or entity who is excluded from contracting with the State of Connecticut or the federal government (as reflected in the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Department of Health and Human Services, Office of Inspector General (HHS/OIG) Excluded Parties list and the Office of Foreign Assets Control (OFAC) list of Specially Designated Nationals and Blocked Persons List). Contractor shall

immediately notify the Agency should it become subject to an investigation or inquiry involving items or services reimbursable under a federal health care program or be listed as ineligible for participation in or to perform Services in connection with such program. The Agency may cancel or terminate this Contract immediately if at any point the Contractor, subcontractor or any of their employees are sanctioned, suspended, excluded from or otherwise become ineligible to participate in federal health care programs.

**3. Annual Financial Audit; Audit and Inspection of Plants and Places of Business; and Records.**

a. **Financial Audit Requirements.** For purposes of this paragraph, the word "contractor" shall be deemed to mean "nonstate entity," as that term is defined in Section 4-230 of the Connecticut General Statutes. The Contractor shall provide for an annual financial audit acceptable to the Department for any expenditure of state-awarded funds made by the Contractor. Such audit shall include management letters and audit recommendations. The State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made. The Contractor will comply with federal and state single audit standards as applicable.

b. **Audits and Inspections.**

- i. The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
- ii. All audits and inspections described in sections b through h of this section shall be at the State's expense.
- iii. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- iv. The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
- v. The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.

c. **Records.**

- i. The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
- ii. The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.

4. **Reports.** The Contractor shall provide the Agency with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the Contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor shall provide the Agency with such reports as the Agency requests as required by this Contract.

5. **Delinquent Reports.** The Contractor shall submit required reports by the designated due dates as identified in this Contract. After notice to the Contractor and an opportunity for a meeting with an Agency representative, the Agency reserves the right to withhold payments for services performed under this Contract if the Agency has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this Contract or previous contracts for similar or equivalent services the Contractor has entered into with the Agency. This section shall survive any Termination of the Contract or the Expiration of its term.
6. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this section, to the Agency on an annual basis in the appropriate fiscal report as specified in Part I of this Contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor or Contractor Party and a related party include, but are not limited to:
- a. Real estate sales or leases;
  - b. leases for equipment, vehicles or household furnishings;
  - c. Mortgages, loans and working capital loans; and
  - d. Contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor or Contractor Party.
7. **Suspension or Debarment.** In addition to the representations and requirements set forth in Section D.4:
- a. The Contractor certifies for itself and Contractor Parties involved in the administration of federal or state funds that they:
    - i. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental agency (federal, state or local);
    - ii. within a three year period preceding the effective date of this Contract, have not been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
    - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the above offenses; and
    - iv. Have not within a three year period preceding the effective date of this Contract had one or more public transactions terminated for cause or fault.
  - b. Any change in the above status shall be immediately reported to the Agency.
8. **Subcontracts.** Each Contractor Party's identity, services to be rendered and costs shall be detailed in Part I of this Contract. Absent compliance with this requirement, no Contractor Party may be used or expense paid under this Contract unless expressly otherwise provided in Part I of this Contract. No Contractor Party shall acquire any direct right of payment from the Agency by virtue of this section or any other section of this Contract. The use of Contractor Parties shall not relieve the Contractor of any responsibility or liability under this Contract. The Contractor shall make available copies of all subcontracts to the Agency upon request.
9. **Independent Capacity of Contractor.** The Contractor and Contractor Parties shall act in an independent capacity and not as officers or employees of the state of Connecticut or of the Agency.

10. **Sovereign Immunity.** The parties acknowledge and agree that nothing in the Solicitation or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.
11. **Indemnification; Insurance.**
- a. The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.
  - b. The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any third party acting under the direct control or supervision of the State.
  - c. The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
  - d. The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
  - e. **Insurance.** The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the policy to the Agency. The Agency shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the Agency or the State is contributorily negligent.
  - f. This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.
12. **Choice of Law/Choice of Forum, Settlement of Disputes, Claims Against the State.**
- a. The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The

Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

- b. Any dispute concerning the interpretation or application of this Contract shall be decided by the Agency Head or his/her designee whose decision shall be final, subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the Agency Head pursuant to this section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Agency shall proceed diligently with the performance of the Contract.
- c. The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Title 4, Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings, except as authorized by that Chapter, in any state or federal court in addition to or in lieu of said Chapter 53 proceedings.

**13. Litigation.**

- a. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
- b. The Contractor shall provide written Notice to the Agency of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990 as revised or amended from time to time, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other requirements of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

**14. Compliance with Law and Policy, Facility Standards and Licensing.** Contractor shall comply with all:

- a. pertinent local, state and federal laws and regulations as well as Agency policies and procedures applicable to contractor's programs as specified in this Contract. The Agency shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Agency has responsibility to promulgate or enforce; and
- b. applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

**15. Representations and Warranties.** Contractor shall:

- a. perform fully under the Contract;
- b. pay for and/or secure all permits, licenses and fees and give all required or appropriate notices with respect to the provision of Services as described in Part I of this Contract; and
- c. adhere to all contractual sections ensuring the confidentiality of all Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law.

## 16. Protection of Confidential Information

- a. Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
- b. Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Department or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:
  - i. A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
  - ii. Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
  - iii. A process for reviewing policies and security measures at least annually;
  - iv. Creating secure access controls to Confidential Information, including but not limited to passwords; and
  - v. Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.
- c. The Contractor and Contractor Parties shall notify the Department and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Department and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Department, any State of Connecticut entity or any affected individuals.
- d. The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.
- e. Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of the Department.

## C. Changes to the Contract, Termination, Cancellation and Expiration.

### 1. Contract Amendment.

- (a) No amendment to or modification or other alteration of this Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the OAG.

- (b) The Agency may amend this Contract to reduce the contracted amount of compensation if:
  - (1) the total amount budgeted by the State for the operation of the Agency or Services provided under the program is reduced or made unavailable in any way; or
  - (2) federal funding reduction results in reallocation of funds within the Agency.
- (c) If the Agency decides to reduce the compensation, the Agency shall send written Notice to the Contractor. Within twenty (20) Days of the Contractor's receipt of the Notice, the Contractor and the Agency shall negotiate the implementation of the reduction of compensation unless the parties mutually agree that such negotiations would be futile. If the parties fail to negotiate an implementation schedule, then the Agency may terminate the Contract effective no earlier than sixty (60) Days from the date that the Contractor receives written notification of Termination and the date that work under this Contract shall cease.

## 2. Contractor Changes and Assignment.

- (a) The Contractor shall notify the Agency in writing:
  - (1) at least ninety (90) days prior to the effective date of any fundamental changes in the Contractor's corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility;
  - (2) no later than ten (10) days from the effective date of any change in:
    - (A) its certificate of incorporation or other organizational document;
    - (B) more than a controlling interest in the ownership of the Contractor; or
    - (C) the individual(s) in charge of the performance.
- (b) No such change shall relieve the Contractor of any responsibility for the accuracy and completeness of the performance. The Agency, after receiving written Notice from the Contractor of any such change, may require such contracts, releases and other instruments evidencing, to the Agency's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that allowance has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to the Agency in accordance with the terms of the Agency's written request. The Agency may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to perform under the Contract until performance is fully completed.
- (c) **Assignment.** The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of the Agency.
  - (1) The Contractor shall comply with requests for documentation deemed to be appropriate by the Agency in considering whether to consent to such assignment.
  - (2) The Agency shall notify the Contractor of its decision no later than forty-five (45) Days from the date the Agency receives all requested documentation.
  - (3) The Agency may void any assignment made without the Agency's consent and deem such assignment to be in violation of this Section and to be in Breach of the Contract. Any cancellation

of this Contract by the Agency for a Breach shall be without prejudice to the Agency's or the State's rights or possible claims against the Contractor.

### 3. Breach.

- (a) If either party Breaches this Contract in any respect, the non-breaching party shall provide written notice of the Breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) Days from the date that the breaching party receives the notice. In the case of a Contractor Breach, the Agency may modify the ten (10) day cure period in the notice of Breach. The right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure, but the nature of the Breach is such that it cannot be cured within the right to cure period. The Notice may include an effective Contract cancellation date if the Breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the cancellation date, no further action shall be required of any party to effect the cancellation as of the stated date. If the notice does not set forth an effective Contract cancellation date, then the non-breaching party may cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written Notice after the expiration of the cure period.
- (b) If the Agency believes that the Contractor has not performed according to the Contract, the Agency may:
- (1) withhold payment in whole or in part pending resolution of the performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the budget;
  - (2) temporarily discontinue all or part of the Services to be provided under the Contract;
  - (3) permanently discontinue part of the Services to be provided under the Contract;
  - (4) assign appropriate State personnel to provide contracted for Services to assure continued performance under the Contract until such time as the contractual Breach has been corrected to the satisfaction of the Agency;
  - (5) require that contract funding be used to enter into a subcontract with a person or persons designated by the Agency in order to bring the program into contractual compliance;
  - (6) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the State or the program(s) provided under this Contract or both; or
  - (7) any combination of the above actions.
- (c) The Contractor shall return all unexpended funds to the Agency no later than thirty (30) calendar days after the Contractor receives a demand from the Agency.
- (d) In addition to the rights and remedies granted to the Agency by this Contract, the Agency shall have all other rights and remedies granted to it by law in the event of Breach of or default by the Contractor under the terms of this Contract.
- (e) The action of the Agency shall be considered final. If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the mutually agreed plan of correction, the Agency may proceed with Breach remedies as listed under this section.
- (f) **Non-enforcement Not to Constitute Waiver of Breach.** No waiver of any Breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity. A party's failure to insist on strict performance of any section of the Contract shall only be deemed to be a waiver of rights and remedies concerning



that specific instance of performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.

#### 4. Ending the Contractual Relationship; Termination.

- a. This Contract shall remain in full force and effect for the duration of its entire term or until such time as it is terminated earlier by either party or cancelled.
- b. If this Contract is terminated for any reason, cancelled or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
- c. **Termination.**
  - i. Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may Terminate the Contract whenever the Agency makes a written determination that such Termination is in the best interests of the State. The Agency shall notify the Contractor in writing of Termination pursuant to this section, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete its Performance under the Contract prior to such date.
  - ii. The Agency may terminate the Contract at any time without prior notice when the funding for the Contract is no longer available.
  - iii. Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Terminate the Contract in accordance with the provisions in the Breach section of this Contract.
  - iv. Notwithstanding any provisions in this Contract, the Agency may immediately terminate or cancel this Contract in the event that the Contractor or any subcontractors becomes financially unstable to the point of threatening its ability to conduct the services required under this Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets.
  - v. Such Notice of Termination shall be sent in accordance with the Notice provision contained on page 1 of this Contract. Upon receiving the notice from the Agency, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Agency all Records. The Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
  - vi. Upon receipt of a written notice of Termination from the Agency, the Contractor shall cease operations as the Agency directs in the notice, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection, and preservation of the Goods and any other property. Except for any work which the Agency directs the Contractor to Perform in the notice prior to the effective date of Termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.

- vii. The Contractor shall return to the Agency any funds not expended in accordance with the terms and conditions of the Contract and, if the Contractor fails to do so upon demand, the Agency may recoup said funds from any future payments owing under this Contract or any other contract between the State and the Contractor. Allowable costs, as detailed in audit findings, incurred until the date of termination or cancellation for operation or transition of program(s) under this Contract shall not be subject to recoupment.
  - viii. The Agency shall, within forty-five (45) days of the effective date of Termination, reimburse the Contractor for its Performance rendered and accepted by the Agency in accordance with Part I in addition to all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. However, the Contractor is not entitled to receive and the Agency is not obligated to tender to the Contractor any payments for anticipated or lost profits. Upon request by the Agency, the Contractor shall assign to the Agency, or any replacement contractor which the Agency designates, all subcontracts, purchase orders and other commitments, deliver to the Agency all Records and other information pertaining to its Performance, and remove from State premises, whether leased or owned, all of Contractor's property, equipment, waste material and rubbish related to its Performance, all as the Agency may request.
  - ix. For breach or violation of any of the provisions in the section concerning Representations and Warranties, the Agency may Terminate the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
  - x. Upon Termination of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination. All representations, warranties, agreements and rights of the parties under the Contract shall survive such Termination to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.
  - xi. Termination of the Contract pursuant to this section shall not be deemed to be a breach of contract by the Agency.
- d. **Transition after Termination or Expiration of Contract.**
- i. If this Contract is terminated for any reason or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
  - ii. If this Contract is terminated, cancelled or not renewed, the Contractor shall return to the Agency any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract in accordance with the written instructions from the Agency in accordance with the Notice provision of this Contract. Written instructions shall include, but not be limited to, a description of the equipment to be returned, where the equipment shall be returned to and who is responsible to pay for the delivery/shipping costs. Unless the Agency specifies a shorter time frame in the letter of instructions, the Contractor shall affect the returns to the Agency no later than sixty (60) days from the date that the Contractor receives Notice.

#### D. Statutory and Regulatory Compliance.

1. **Americans with Disabilities Act.** The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (<http://www.ada.gov/>) as amended from time to time ("Act") to the extent applicable, during the term of the Contract. The Agency may cancel or terminate this Contract if the Contractor fails to comply with the Act. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it shall hold the State harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this Act. As applicable, the Contractor shall comply with section 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
2. **Utilization of Minority Business Enterprises.** The Contractor shall perform under this Contract in accordance with 45 C.F.R. Part 74; and, as applicable, C.G.S. §§ 4a-60 to 4a-60a and 4a-60g to carry out this policy in the award of any subcontracts.
3. **Non-discrimination.**
  - a. For purposes of this Section, the following terms are defined as follows:
    - (1) "Commission" means the Commission on Human Rights and Opportunities;
    - (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
    - (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
    - (4) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
    - (5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
    - (6) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
    - (7) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
    - (8) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
    - (9) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
    - (10) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

- b.
- i. The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved;
  - ii. the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission;
  - iii. the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - iv. the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and
  - v. the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g)
- (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
  - (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and
  - (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.
- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
4. **Executive Orders.** This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to the applicable parts of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. If Executive Orders 7C and 14 are applicable, they are deemed to be incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Department shall provide a copy of these orders to the Contractor.
5. **Disclosure of Records.** This Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this statute, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to

the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.

6. **Whistleblowing.** This Contract is subject to C.G.S. § 4-61dd if the amount of this Contract is a "large state contract" as that term is defined in C.G.S. § 4-61dd(h). In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars (\$5,000) for each offense, up to a maximum of twenty per cent (20%) of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the relevant sections of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.
  
7. **Summary of State Ethics Laws.** Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.  
<http://www.ct.gov/ethics/cwp/view.asp?a=2313&q=432632#part4>
  
8. **Campaign Contribution Restrictions.** For all State contracts as defined in C.G.S. § 9-612(g) the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's ("SEEC") notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice reproduced below:

[http://www.ct.gov/seec/lib/seec/forms/contractor\\_reporting/\\_seec\\_form\\_11\\_notice\\_only.pdf](http://www.ct.gov/seec/lib/seec/forms/contractor_reporting/_seec_form_11_notice_only.pdf)

CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION  
Rev. 1/11  
Page 1 of 2



## Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

### CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall knowingly *solicit* contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor* or *principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

### DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

### PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

**Civil penalties**—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

**Criminal penalties**—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

### CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to "Lobbyist/Contractor Limitations."




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**DEFINITIONS**

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"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office, or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty-first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

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**This document constitutes an amendment to the above numbered contract. All provisions of that contract, except those explicitly changed above by this amendment, shall remain in full force and effect.**




**SIGNATURES AND APPROVALS**

**999FDG-ITS-01 / 08DSS7402TE A7**

The Contractor IS a Business Associate under the Health Insurance Portability and Accountability Act of 1996 as amended.

**CONTRACTOR - FIRST DATA GOVERNMENT SOLUTIONS, LP**

  
\_\_\_\_\_  
John Grubmüller, *Vice President, Government Professional Services*


9/20/13  
Date

**DEPARTMENT OF SOCIAL SERVICES**

  
\_\_\_\_\_  
Roderick L. Bremby, *Commissioner*

9/24/2013  
Date

**OFFICE OF THE ATTORNEY GENERAL**

  
\_\_\_\_\_  
ASST. / ASSOC. ATTORNEY GENERAL (*Approved as to form & legal sufficiency*)  
*Joseph Paul*  
ASSOC. ATTY. GENERAL

10/7/13  
Date

**PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT**

CO-802A REV. 3/98 (Stock No. 5938-170-01)

Print or Type

**OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION**

I, THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS OF SECTION 4-93 OF THE C.S. AS APPLICABLE.

(1) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> 6	(2) IDENTIFICATION NO. 08DSS7402TE
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CONTRACTOR	(3) CONTRACTOR NAME <b>FIRST DATA GOVERNMENT SOLUTIONS, LP</b>	(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
	CONTRACTOR ADDRESS 11311 Cornell Park Drive, Suite 300, Cincinnati, Ohio 45242	CONTRACTOR FEIN/SSN 58-2582959

STATE AGENCY	(5) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106	(6) AGENCY NO. DSS6000
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CONTRACT PERIOD	(7) DATE (FROM) 09/01/2008	THROUGH (TO) 09/30/2013	(8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER <input type="checkbox"/>
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CANCELLATION CLAUSE	(9) THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).	(10) REQUIRED NO. OF DAYS WRITTEN NOTICE 30 days
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COMPLETE DESCRIPTION OF SERVICE	(11) CONTRACTOR AGREES TO: (include special provisions - Attach additional blank sheets if necessary.)	
	The Contractor shall continue to assist the Department in its effort to support the implementation of the competitively procured Modernization of Client Service Delivery project to include Online Web-Based Application, Integrated Document Management System and Integrated Voice Response System. Additionally, the Contractor will perform the new services identified in this amendment and any other consultative services requested by the Department.	

COST AND SCHEDULE OF PAYMENT	(11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES. \$1,692,490.00 shall be added through this amendment. The cost and schedule of payment shall be paid on a time and materials basis consistent with the staffing allocation incorporated as part of this amendment.	
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(12) ACT CD	(13) DOC TYP	(14) COM TY P	(15) LSE TYP	(16) ORIG. AGCY	(17) DOCUMENT NO.	(18) COMMIT AGCY DSS6000	(19) COMMIT. NO.	(20) VENDOR FEIN/SSN - SUFFIX
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(21) COMMITTED AMOUNT	(22) OBLIGATED AMOUNT	(23) CONTRACT PERIOD (FROM/TO)
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(24) Line No.	(25) Budget Reference	(26) Fund	(27) Department	(28) Program	(29) SID	(30) Account	(31) Project/Grant	(32) Chart 1	(32) Chart 2	(33) Amount of Amendment
										\$1,692,490.00

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent Contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent Contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS	(34) STATUTORY AUTHORITY §§ 4-8, 17b-3	
	(35) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) 	TITLE John Grubmuller Assistant Secretary DATE 9/26/2011
	(36) AGENCY (AUTHORIZED OFFICIAL) 	TITLE Roderick L. Bremby, Commissioner DATE 9/28/2011
(39) ATTORNEY GENERAL (APPROVED AS TO FORM) 	ATTOR. GEN. GENERAL DATE 10/11/11	

ii. In addition to the Quality Assurance / Quality Control role, the Contractor team will provide risk management and independent findings and recommendations to help DSS management in their decision process.

iii. FDGS will work with DSS to determine the appropriate LOE for this task.

E. Vendor Deliverable Review, Comments and Recommendations

i. The Contractor's team will proactively participate in preliminary deliverable reviews and work with the selected implementation vendor to provide quality assurance.

ii. The Contractor shall review all vendor deliverables to ensure they follow the protocol defined in the deliverable expectation documents and meet all defined and implied requirements.

iii. Contractor shall ensure prescribed expectations are clearly stated to the vendor and provide detailed comments for any items requiring further clarification or revision. Contractor will also provide findings and recommendations for next steps to the DSS MCSD manager (i.e., rejection, approval, etc.).

F. Quality Control Testing and User Acceptance Test (UAT) Monitoring

i. The Contractor will follow industry testing standards and its proven and cost-effective methods and procedures for testing automated systems in the human services arena.

ii. The Contractor will utilize a Requirements Traceability Matrix and Database to collect and correlate functional and system requirements with development reviews and testing results at each phase of the project. The Matrix will map the DSS approved requirements with the Vendor design, development and test deliverables to ensure the project objectives are met.

iii. First Data will provide QA/QC reviews of all vendor testing including Unit, Integration, System, Performance and Regression testing.

iv. First Data will perform Independent Verification and Validation Testing (IV&V) as a component of the overall testing plan. The IV&V testing will follow the First Data methodology defined in the original contract using a progressive compliance approach (increased error rates trigger more testing). First Data will work with the DSS MCSD team to develop and implement the User Acceptance Test Plan (UAT). This will include whatever training and guidance is needed for the DSS testers. The Contractor will also manage / monitor the UAT procedures and results and provide its findings and recommendations to DSS.

G. Other Management and Consultant Assistance and Activities

i. When asked to take on additional tasks by DSS, Contractor shall propose, on a time and materials basis, the estimated cost to the Department for the entirety of the new task/project proposed.

Copy of CT DSS CO001 Staffing 10012011.xls  
CT DSS MCSD Staff Loading

Proposed CT MCSD QA Vendor Staffing - 24 Month Extension

Project	Position Title	Staff Name	Rate	Total Months	1 8/11	2 9/11	3 10/11	4 11/11	5 12/11	6 1/12	7 2/12	8 3/12	9 4/12
					22	22	22	21	22	20	22	20	20
<b>CT DSS MCSD</b>													
	Project Director	E. Picard	\$175	24	40	40	40	40	24	24	24	24	20
	Project Manager	L. Taylor	\$175	24	132	132	132	132	132	132	132	132	132
	Business Lead	K. Thornton	\$125	24	132	132	132	132	132	132	132	132	132
	Technical / Test Manager	TBD	\$155	24	0	80	132	132	132	132	132	132	132
	Technical Architect	David Gill	\$165	20	0	0	0	0	0	0	0	0	0
	BSA/Test Lead	TBD	\$125	20	0	0	80	132	132	132	132	132	132
<b>Total Hours</b>					<b>304</b>	<b>384</b>	<b>384</b>	<b>568</b>	<b>552</b>	<b>552</b>	<b>552</b>	<b>552</b>	<b>548</b>

**Copy of CT DSS CO001 Staffing 10012011.xls  
CT DSS MCSD Staff Loading**

Project	Position Title	Staff Name	21 4/13	22 5/13	23 6/13	24 7/13	Total Hours	Total Cost
			20	20	23	21	256	235
<b>CT DSS MCSD</b>								
	Project Director	E. Picard	24	24	24	12	582	\$101,850
	Project Manager	L. Taylor	132	132	80	40	2,972	\$520,100
	Business Lead	K. Thornton	132	80	0	0	2,852	\$356,500
	Technical / Test Manager	TBD	132	80	0	0	2,668	\$413,540
	Technical Architect	David Gill	0	0	0	0	0	\$0
	BSA/Test Lead	TBD	80	0	0	0	2,404	\$300,500
<b>Total Hours</b>			<b>500</b>	<b>316</b>	<b>104</b>	<b>52</b>	<b>11,478</b>	<b>1,692,490</b>

**PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT**  
CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

**OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION**

THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS OF SECTION 4-91 OF THE C.G.S., AS APPLICABLE

(1) ORIGINAL <input type="checkbox"/>	AMENDMENT <input checked="" type="checkbox"/>	(2) IDENTIFICATION NO 08DSS7402TE
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CONTRACTOR	(3) CONTRACTOR NAME <b>FIRST DATA GOVERNMENT SOLUTIONS, LP</b>	(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
	CONTRACTOR ADDRESS 11311 Cornell Park Drive, Suite 300, Cincinnati, Ohio 45242	CONTRACTOR FEIN/SSN 58-2582959

STATE AGENCY	(5) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106	(6) AGENCY IIO DSS6000
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CONTRACT PERIOD	(7) DATE (FROM) 09/01/2008	THROUGH (TO) 09/30/2011	(8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER <input type="checkbox"/>
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CANCELLATION CLAUSE	THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).	(9) REQUIRED NO. OF DAYS WRITTEN NOTICE. 30 days
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COMPLETE DESCRIPTION OF SERVICE	(10) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)
	The Contractor shall continue to assist the Department in its effort to support the implementation of the competitively procured Modernization of Client Service Delivery project to include Online Web-Based Application, Integrated Document Management System and Integrated Voice Response System.

COST AND SCHEDULE OF PAYMENT	(11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES. No additional monies are added through this amendment. The cost and schedule of payment shall remain unchanged.
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(12) ACT CD	(13) DOC TYP	(14) COM FY P	(15) LSE. TYP	(16) ORIG. AGCY	(17) DOCUMENT NO.	(18) COMMT AGCY	(19) COMMT. NO.	(20) VENDOR FEIN/SSN - SUFFIX		
						DSS6000				
(21) COMMITTED AMOUNT			(22) OBLIGATED AMOUNT			(23) CONTRACT PERIOD (FROM/TO)				
(24) Line No.	(25) Innduct Reference	(26) Fund	(27) Department	(28) Program	(29) SID	(30) Account	(31) Project/Grant	(32) Chart 1	(32) Chart 2	(33) Amount

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent Contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent Contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS	(34) STATUTORY AUTHORITY § 5 4- 8, 17b-3	
	(35) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE)	
(36) AGENCY (AUTHORIZED OFFICIAL)	(37) TITLE John Grubmuller Assistant Secretary	(38) DATE 7/25/2011
(39) TITLE CLAUDETTE BEAULIEU Deputy Commissioner	(38) DATE 7/26/11	(38) DATE 8/9/11

Whereas the Contract between the Parties was executed on August 21, 2008 and subsequently amended; and

Whereas the Contractor still has work to perform under the current scope of the contract; and

Whereas the Department has yet to execute a contract with the Modernization of Client Service Delivery vendor; and

Whereas the Department still requires the services of the Contractor as originally contracted for;

Now therefore, the parties do hereby agree to the following:

1. The end date of the term of the contract shall be extended by two months from 07/31/11 to 09/30/11.
2. All references in the contract to this end date shall be altered to reflect the new end date.
3. In the event that negotiations for the Modernization of Client Service Delivery vendor are finalized prior to 09/30/11 and the Department has received approval from the Office of Policy and Management to execute another amendment to this contract, a new amendment will be issued promptly.
4. No additional dollars will be added to the maximum contract value.
5. All other terms and conditions not specifically amended herein shall remain in full force and effect.

**PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT**

CO-802A REV. 3/98 (Stock No. 803B-170-01)

Print or Type

**OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION**

1 THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS OF SECTION 4-88 OF THE C.G.S. AS APPLICABLE

11 ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> 4		12 IDENTIFICATION NO 08DSS7402TE	
13 CONTRACTOR NAME <b>FIRST DATA GOVERNMENT SOLUTIONS, LP</b>	14 ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
15 CONTRACTOR ADDRESS 11311 Cornell Park Drive, Suite 300, Cincinnati, Ohio 45242		16 CONTRACTOR FEIN/SSN 58-2582959	
17 STATE AGENCY <b>Department of Social Services, 25 Sigourney Street, Hartford, CT 06106</b>	18 AGENCY NAME AND ADDRESS		19 AGENCY NO. DSS6000
20 CONTRACT PERIOD 09/01/2008	21 THROUGH TO 07/31/2011	22 INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER <input type="checkbox"/>	
23 CANCELLATION CLAUSE THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT)			24 REQUIRED NO. OF DAYS WRITTEN NOTICE 30 days

25 CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)

The Contractor shall continue to assist the Department in its effort to support the implementation of the competitively procured Modernization of Client Service Delivery project to include Online Web-Based Application, Integrated Document Management System and Integrated Voice Response System.

26 PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE (UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES)

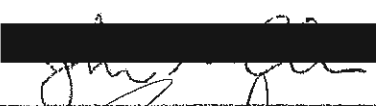
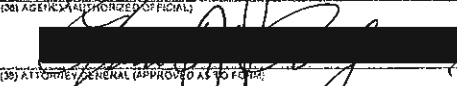
No additional monies are added through this amendment. The cost and schedule of payment shall remain unchanged.

27 CONTRACT ID	28 BOB TYP	29 CHECK NO	30 LSE TYP	31 GRID AGENCY	32 DOCUMENT NO	33 COMMIT AGENCY DSS6000	34 CONTRACT TO	35 VENDOR FEIN/SSN - SUFFIX		
36 COMMITTED AMOUNT			37 OBLIGATED AMOUNT			38 CONTRACT PERIOD (FROM/TO)				
Line No.	Fund Reference	Fund	Department	Program	SID	Account	Project/Grant	Chart 1	Chart 2	Amount

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent Contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer-employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent Contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

**ACCEPTANCE AND APPROVALS**

**STATUTORY AUTHORITY §§ 4-8, 17b-3**

39 CONTRACTOR (OWNER AUTHORIZED REPRESENTATIVE) 	TITLE John Grubmuller, Assistant Secretary	DATE 5/11/2011
40 AGENCY AUTHORIZED OFFICIAL 	TITLE Roderick L. Bremby, Commissioner	DATE 5/18/2011
41 ATTORNEY GENERAL (APPROVED AS TO FORM) A5500	AGSOG, ATTY. GENERAL	DATE 5/24/11



Whereas the Contract between the Parties was executed on August 21, 2008 and subsequently amended; and

Whereas the Contractor still has work to perform under the current scope of the contract; and

Whereas the Department has yet to execute a contract with the Modernization of Client Service Delivery vendor; and

Whereas the Department still requires the services of the Contractor as originally contracted for;

Now therefore, the parties do hereby agree to the following:

1. The end date of the term of the contract shall be extended by two months from 05/31/11 to 07/31/11.
2. All references in the contract to this end date shall be altered to reflect the new end date.
3. In the event that negotiations for the Modernization of Client Service Delivery vendor are finalized prior to 07/31/11 and the Department has received approval from the Office of Policy and Management to execute another amendment to this contract, a new amendment will be issued promptly.
4. No additional dollars will be added to the maximum contract value.
5. All other terms and conditions not specifically amended herein shall remain in full force and effect.

**PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT**

CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

**OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION**

1 THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS OF SECTION 4-98 OF THE C.G.S., AS APPLICABLE

		1) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> 3		2) IDENTIFICATION NO. 08DSS7402TE	
CONTRACTOR		3) CONTRACTOR NAME <b>FIRST DATA GOVERNMENT SOLUTIONS, LP</b>			4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
		CONTRACTOR ADDRESS 11311 Cornell Park Drive, Suite 300, Cincinnati, Ohio 45242			CONTRACTOR FEIN/SSN 58-2582959
STATE AGENCY		5) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106			6) AGENCY NO DSS6000
CONTRACT PERIOD		7) DATE (FROM) 09/01/2008	THROUGH (TO) 05/31/2011	8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER <input type="checkbox"/>	
CANCELLATION CLAUSE		THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).			9) REQUIRED NO. OF DAYS WRITTEN NOTICE 30 days

10) CONTRACTOR AGREES TO: (include special provisions - Attach additional blank sheets if necessary.)

**COMPLETE DESCRIPTION OF SERVICE**

The Contractor shall continue to assist the Department in its effort to support the implementation of the competitively procured Modernization of Client Service Delivery project to include Online Web-Based Application, Integrated Document Management System and Integrated Voice Response System.

11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.

**COST AND SCHEDULE OF PAYMENT**

No additional monies are added through this amendment. The cost and schedule of payment shall remain unchanged.

(12) ACT CD	(13) DOC TYP	(14) COM TY P	(15) LSE TYP	(16) ORIG AGCY	(17) DOCUMENT NO.	(18) COMMIT AGCY DSS6000	(19) COMMIT NO.	(20) VENDOR FEIN/SSN - SUFFIX		
(21) COMMITTED AMOUNT				(22) OBLIGATED AMOUNT		(23) CONTRACT PERIOD (FROM/TO)				
(24) Line No.	(25) Budget Reference	(26) Fund	(27) Department	(28) Program	(29) SID	(30) Account	(31) Project/Grant	(32) Char 1	(33) Char 2	(34) Amount

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent Contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent Contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

<b>ACCEPTANCE AND APPROVALS</b>		<b>STATUTORY AUTHORITY §§ 4-8, 17b-3</b>	
(35) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE)	[Redacted Signature]	TITLE	John Grubmuller, Assistant Secretary
(36) AGENCY AUTHORITY OFFICIAL	[Redacted Signature]	TITLE	Michael P. Starkowski, Commissioner
(37) OFFICE OF	[Redacted Signature]	TITLE	ASSOC. A.G.
Approval us to for A //		DATE	3/23/2011
[Redacted Signature]		DATE	3/20/11
[Redacted Signature]		DATE	4/1/11

Whereas the Contract between the Parties was last executed on August 21, 2008; and

Whereas the Contractor still has work to perform under the current scope of the contract; and

Whereas the Department has yet to execute a contract with the Modernization of Client Service Delivery vendor; and

Whereas the Department still requires the services of the Contractor as originally contracted for;

Now therefore, the parties do hereby agree to the following:

1. The end date of the term of the contract shall be extended by two months from 03/31/11 to 5/31/11.
2. All references in the contract to this end date shall be altered to reflect the new end date.
3. No additional dollars will be added to the maximum contract value.
4. All other terms and conditions not specifically amended herein shall remain in full force and effect.

**PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT**  
CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

**OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION**

1. THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS OF SECTION 4-98 OF THE C.G.S., AS APPLICABLE.

		(3) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> 2		(2) IDENTIFICATION NO. 08DSS7402TE	
(3) CONTRACTOR NAME <b>FIRST DATA GOVERNMENT SOLUTIONS</b>		(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>			
(3) CONTRACTOR ADDRESS 11311 Cornell Park Drive, Suite 300, Cincinnati, Ohio 45242		(5) CONTRACTOR FEIN/SSN 58-2582959			
(6) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106		(6) AGENCY ID. DSS6000			
(7) CONTRACT PERIOD 09/01/2008		(7) THROUGH (10) 03/31/2011		(8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER <input type="checkbox"/>	
(9) CANCELLATION CLAUSE THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).		(10) REQUIRED NO. OF DAYS WRITTEN NOTICE. 30 days			

(10) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)

**COMPLETE DESCRIPTION OF SERVICE**

The Contractor shall continue to assist the Department in its effort to support the implementation of the competitively procured Modernization of Client Service Delivery project to include Online Web-Based Application, Integrated Document Management System and Integrated Voice Response System.




(11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.

**COST AND SCHEDULE OF PAYMENT**

No additional monies are added through this amendment. The cost and schedule of payment shall remain unchanged.

(12) ACT. CD.	(13) DOC. TYP.	(14) COM. TY. P.	(15) LSE. TYP.	(16) ORIG. AGCY	(17) DOCUMENT NO.	(18) COMBAT AGCY DSS6000	(19) COMBAT. NO.	(20) VENDOR FEIN/SSN - SUFFIX		
(21) COMMITTED AMOUNT			(22) OBLIGATED AMOUNT			(23) CONTRACT PERIOD (FROM TO)				
(24) Line No.	(25) Budget Reference	(26) Fund	(27) Department	(28) Program	(29) SID	(30) Account	(31) Project/Grant	(32) Chart 1	(32) Chart 2	(33) Amount

All individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent Contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent Contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, Federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

<b>ACCEPTANCE AND APPROVALS</b>		<b>STATUTORY AUTHORITY 55-4-8, 17b-3</b>	
(36) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) 		(34) TITLE John Grubmuller, Assistant Secretary	
(36) AGENCY AUTHORIZED OFFICIAL 		(34) TITLE Michael P. Starkowski, Commissioner	
(37) OFFICE OF PO 		(34) DATE 12/22/2010	
		(34) DATE 1/4/12	

Whereas the Contract between the Parties was last executed on September 30, 2010; and

Whereas the Contractor still has work to perform under the current scope of the contract; and

Whereas the Department has yet to execute a contract with the Modernization of Client Service Delivery vendor; and

Whereas the Department still requires the services of the Contractor as originally contracted for;

Now therefore, the parties do hereby agree to the following:

1. The end date of the term of the contract shall be extended by three months from 12/31/10 to 03/31/11.
2. All references in the contract to this end date shall be altered to reflect the new end date.
3. No additional dollars will be added to the maximum contract value.
4. The Mandatory Terms and Conditions section shall be deleted and replaced in its entirety with the Terms and Conditions below:

## PART II. TERMS AND CONDITIONS

The Contractor shall comply with the following terms and conditions.

A. **Definitions.** Unless otherwise indicated, the following terms shall have the following corresponding definitions:

1. **“Bid”** shall mean a bid submitted in response to a solicitation.
2. **“Breach”** shall mean a party’s failure to perform some contracted-for or agreed-upon act, or his failure to comply with a duty imposed by law which is owed to another or to society.
3. **“Cancellation”** shall mean an end to the Contract affected pursuant to a right which the Contract creates due to a Breach.
4. **“Claims”** shall mean all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmaturred, contingent, known or unknown, at law or in equity, in any forum.
5. **“Client”** shall mean a recipient of the Contractor’s services.
6. **“Contract”** shall mean this agreement, as of its effective date, between the Contractor and the State for Services.
7. **“Contractor Parties”** shall mean a Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them

8. **“Data”** shall mean all results, technical information and materials developed and/or obtained in the performance of the Services hereunder, including but not limited to all reports, survey and evaluation tools, surveys and evaluations, plans, charts, recordings (video and/or sound), pictures, curricula, electronically prepared presentations, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the Services performed hereunder.
9. **“Day”** shall mean all calendar days, other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
10. **“Expiration”** shall mean an end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract’s term being completed.
11. **“Force Majeure”** shall mean events that materially affect the Services or the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
12. **“Records”** shall mean all working papers and such other information and materials as may have been accumulated and/or produced by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
13. **“Services”** shall mean the performance of Services as stated in Part I of this Contract.
14. **“State”** shall mean the State of Connecticut, including any agency, office, department, board, council, commission, institution or other executive branch agency of State Government.
15. **“Termination”** shall mean an end to the Contract affected pursuant to a right which the Contract creates, other than for a Breach.

**B. Client-Related Safeguards.**

1. **Inspection of Work Performed.** The Agency or its authorized representative shall at all times have the right to enter into the Contractor’s premises, or such other places where duties under the Contract are being performed, to inspect, to monitor or to evaluate the work being performed upon thirty (30) days written notice. The Contractor and all subcontractors must provide all reasonable facilities and assistance to Agency representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work and shall be conducted during normal business hours and such inspections and evaluations shall be at the Agency’s own expense. The Agency shall abide by all Contractor work rules and security regulations while conducting such inspections. Written evaluations pursuant to this Section shall be made available to the Contractor.
2. **Safeguarding Client Information.** The Agency and the Contractor shall safeguard the use, publication and disclosure of information on all applicants for and all Clients who receive Services under this Contract with all applicable federal and state law concerning confidentiality and as may be further provided under the Contract.
3. **Reporting of Client Abuse or Neglect.** The Contractor shall comply with all reporting requirements relative to Client abuse and neglect, including but not limited to requirements as specified in C.G.S. §§ 17a-101 through 103, 19a-216, 46b-120 (related to children); C.G.S. § 46a-11b (relative to persons with mental retardation); and C.G.S. § 17b-407 (relative to elderly persons).

4. **Background Checks.** The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Public Safety Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.

**C. Contractor Obligations.**

1. **Cost Standards.** Effective January 1, 2007, the Contractor and funding state Agency shall comply with the Cost Standards issued by OPM, as may be amended from time to time. The Cost Standards are published by OPM on the Web at [http://ct.gov/opm/fin/cost\\_standards](http://ct.gov/opm/fin/cost_standards). Such Cost Standards shall apply to:
  - (a) all new contracts effective on or after January 1, 2007;
  - (b) all contract amendments modifying funding, effective on or after January 1, 2007;
  - (c) all contracts in effect on or after July 1, 2007.
2. **Credits and Rights in Data.** Unless expressly waived in writing by the Agency, all Records and publications intended for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the State and the Agency and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify and hold harmless the Agency, unless the Agency or its agents co-authored said publication or said release is done with the prior written approval of the Agency Head. All publications shall contain the following statement: "This publication does not express the views of the [insert Agency name] or the State of Connecticut. The views and opinions expressed are those of the authors." Neither the Contractor nor any of its agents shall copyright Data and information obtained under this Contract, unless expressly previously authorized in writing by the Agency. The Agency shall have the right to publish, duplicate, use and disclose all such Data in any manner, and may authorize others to do so. The Agency may copyright any Data without prior Notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Agency of such Data.
3. **Organizational Information, Conflict of Interest, IRS Form 990.** During the term of the Contract and the 180 days following its date of Termination and/or Cancellation, the Contractor shall submit to the Agency copies of the following within thirty (30) days after having filed them:
  - (a) its most recent IRS Form 990 submitted to the federal Internal Revenue Service, and
  - (b) its most recent Annual Report filed with the Connecticut Secretary of the State's Office or such other information that the Agency deems appropriate with respect to the organization and affiliation of the Contractor and related entities.
4. **Federal Funds.**
  - (a) The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Agency shall specify all such requirements in Part I of this Contract.
  - (b) The Contractor acknowledges that the Agency has established a policy, as mandated by section 6032 of the Deficit Reduction Act (DRA) of 2005, P.L. 109-171, that provides detailed information about the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and other laws supporting the detection and prevention of fraud and abuse.

- (1) Contractor acknowledges that is has received a copy of said policy and shall comply with its terms, as amended, and with all applicable state and federal laws, regulations and rules. Contractor shall provide said policy to subcontractors and shall require compliance with the terms of the policy. Failure to abide by the terms of the policy, as determined by the Agency, shall constitute a Breach of this Contract and may result in termination of this Contract.
- (c) This section applies if, under this Contract, the Contractor or Contractor Parties furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the Agency.
- (d) Contractor represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs.
- (e) Contractor shall not, for purposes of performing the Contract with the Agency, knowingly employ or contract with, with or without compensation: (A) any individual or entity listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs; or (B) any person or entity who is excluded from contracting with the State of Connecticut or the federal government (as reflected in the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Department of Health and Human Services, Office of Inspector General (HHS/OIG) Excluded Parties list and the Office of Foreign Assets Control (OFAC) list of Specially Designated Nationals and Blocked Persons List). Contractor shall immediately notify the Agency should it become subject to an investigation or inquiry involving items or services reimbursable under a federal health care program or be listed as ineligible for participation in or to perform services in connection with such program. The Agency may terminate this Contract immediately if at any point the Contractor, subcontractor or any of their employees are sanctioned, suspended, excluded from or otherwise become ineligible to participate in federal health care programs.

## **5. Audit Requirements.**

- (a) The State Auditors of Public Accounts shall have access to all Records for the fiscal year(s) in which the award was made. The Contractor shall provide for an annual financial audit acceptable to the Agency for any expenditure of state-awarded funds made by the Contractor. Such audit shall include management letters and audit recommendations. The Contractor shall comply with federal and state single audit standards as applicable.
- (b) The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State, including, but not limited to, the Agency, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents and such inspections shall be conducted in a manner that does not disrupt Contractor's business. Requests for any audit or inspection shall be in writing, at least ten (10) days prior to the requested date. All audits and inspections shall be at the requester's expense. The State may request an audit or inspection at any time during the Contract term and for three (3) years after Termination, Cancellation or Expiration of the Contract. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (c) For purposes of this subsection as it relates to State grants, the word "Contractor" shall be read to mean "nonstate entity," as that term is defined in C.G.S. § 4-230.

- 6. Related Party Transactions.** The Contractor, First Data Government Solutions, shall report all related party transactions, as defined in this section, to the Agency on an annual basis in the appropriate fiscal report as specified in Part I of this Contract. "Related party" means a person or organization related



through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor or Contractor Party and a related party include, but are not limited to:

- (a) real estate sales or leases;
- (b) leases for equipment, vehicles or household furnishings;
- (c) mortgages, loans and working capital loans; and
- (d) contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor or Contractor Party.

**7. Suspension or Debarment.** In addition to the representations and requirements set forth in Section D.4:

- (a) The Contractor certifies for itself and Contractor Parties involved in the administration of federal or state funds that they:
  - (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental agency (federal, state or local);
  - (2) within a three year period preceding the effective date of this Contract, have not been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
  - (3) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the above offenses; (4) have not within a three year period preceding the effective date of this Contract had one or more public transactions terminated for cause or fault.
- (b) Any change in the above status shall be immediately reported to the Agency.

**8. Liaison.** Each Party shall designate a liaison to facilitate a cooperative working relationship between the Contractor and the Agency in the performance and administration of this Contract.

**9. Subcontracts.** Each Contractor Party's identity, services to be rendered and costs shall be detailed in Part I of this Contract. Absent compliance with this requirement, no Contractor Party may be used or expense paid under this Contract unless expressly otherwise provided in Part I of this Contract. No Contractor Party shall acquire any direct right of payment from the Agency by virtue of this section or any other section of this Contract. The use of Contractor Parties shall not relieve the Contractor of any responsibility or liability under this Contract. The Contractor shall make available copies of all subcontracts to the Agency upon request.

**10. Independent Capacity of Contractor.** The Contractor and Contractor Parties shall act in an independent capacity and not as officers or employees of the state of Connecticut or of the Agency.

**11. Indemnification.**

- (a) The Contractor shall indemnify, defend and hold harmless the state of Connecticut and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all:
  - (1) claims arising directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively the "Acts") of the Contractor or Contractor Parties; and
  - (2) liabilities, damages, losses, costs and expenses, including but not limited to attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its indemnification and hold-harmless obligations under this Contract. The Contractor's obligations under this section to indemnify, defend and hold harmless against claims includes claims concerning confidentiality of any part of or all of the bid or any records, and intellectual property rights, other propriety rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance of the Contract.
- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such claims.
- (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the claims.
- (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any sections survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the Commercial General Liability and Auto Liability policies and as a loss payee on the Professional Liability policy and shall provide a copy of the policies to the Agency prior to the effective date of the Contract. The Contractor shall not begin performance until the delivery of the policy to the Agency.
- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a claim against a third party.
- (f) This section shall survive the Termination, Cancellation or Expiration of the Contract, and shall not be limited by reason of any insurance coverage.

**12. Insurance.** Before commencing performance, the Agency may require the Contractor to obtain and maintain specified insurance coverage. In the absence of specific Agency requirements, the Contractor shall obtain and maintain the following insurance coverage at its own cost and expense for the duration of the Contract:

- (a) **Commercial General Liability.** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability, and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the services to be performed under this Contract or the general aggregate limit shall be twice the occurrence limit;

- (b) **Automobile Liability:** \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of this Contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of this Contract then automobile coverage is not required.
- (c) **Professional Liability.** \$1,000,000 limit of liability, if applicable; and/or
- (d) **Workers' Compensation and Employers Liability.** Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

**13. Choice of Law/Choice of Forum, Settlement of Disputes, Claims Against the State.**

- (a) The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
- (b) Any dispute concerning the interpretation or application of this Contract shall be decided by the Agency Head or his/her designee whose decision shall be final, subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the Agency Head pursuant to this section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Agency shall proceed diligently with the performance of the Contract.
- (c) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Title 4, Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings, except as authorized by that Chapter, in any state or federal court in addition to or in lieu of said Chapter 53 proceedings.

**14. Compliance with Law and Policy, Facility Standards and Licensing.** Contractor shall comply with all:

- (a) pertinent local, state and federal laws and regulations as well as Agency policies and procedures applicable to contractor's programs as specified in this Contract. The Agency shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Agency has responsibility to promulgate or enforce; and
- (b) applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

15. **Covenants.** Contractor shall:
- (a) meet the specifications as outlined in the Contract;
  - (b) pay for and/or secure all permits, licenses and fees and give all required or appropriate notices with respect to the provision of Services as described in Part I of this Contract; and
  - (c) adhere to all contractual sections ensuring the confidentiality of all Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law.
16. **Reports.** The Contractor shall provide the Agency with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the Contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor shall provide the Agency with such reports as the Agency requests as required by this Contract.
17. **Delinquent Reports.** The Contractor shall submit required reports by the designated due dates as identified in this Contract. After notice to the Contractor and an opportunity for a meeting with an Agency representative, the Agency reserves the right to withhold payments for services performed under this Contract if the Agency has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this Contract or previous contracts for similar or equivalent services the Contractor has entered into with the Agency. This section shall survive any Termination of the Contract or the Expiration of its term.
18. **Record Keeping and Access.** The Contractor shall maintain books, Records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this Contract. These Records shall be subject at all reasonable times with prior written notice at the cost of the Agency, to monitoring, inspection, review or audit by authorized employees or agents of the State or, where applicable, federal agencies. The Contractor shall retain all such Records concerning this Contract for a period of three (3) years after the completion and submission to the State of the Contractor's annual financial audit.
19. **Encryption of Data.**
- (a) The Contractor, at its own expense, shall encrypt any and all electronically stored data now or hereafter in its possession or control located on non-state owned or managed devices that the State, in accordance with its existing state policies classifies as confidential or restricted. The method of encryption shall be compliant with the State of Connecticut Enterprise Wide Technical Architecture ("EWTA") or such other method as deemed acceptable by the Agency. This shall be a continuing obligation for compliance with the EWTA standard as it may change from time to time. The EWTA domain architecture documents can be found at <http://www.ct.gov/doi/cwp/view.asp?a=1245&q=253968>.
  - (b) In the event of a breach of security or loss of State data, the Contractor shall notify the Agency and the OAG as soon as practical but not later than twenty-four (24) hours after the discovery or suspicion of such breach or loss that such data has been comprised through breach or loss. The requirements of this section are in addition to those that may apply under Part II, Section E.
20. **Workforce Analysis.** The Contractor shall provide a workforce Analysis Affirmative Action report related to employment practices and procedures.
21. **Litigation.**

- (a) The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
  - (b) The Contractor shall provide written Notice to the Agency of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990 as revised or amended from time to time, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other requirements of federal or state law concerning equal employment opportunities or nondiscriminatory practices.
22. **Sovereign Immunity.** The Contractor and Contractor Parties acknowledge and agree that nothing in the Contract, or the solicitation leading up to the Contract, shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this Section conflicts with any other Section, this Section shall govern.

**Section D. Changes To The Contract, Termination, Cancellation and Expiration.**

**1. Contract Amendment.**

- (a) No amendment to or modification or other alteration of this Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the Connecticut Attorney General.
- (b) The Agency may amend this Contract to reduce the contracted amount of compensation if:
  - (1) the total amount budgeted by the State for the operation of the Agency or Services provided under the program is reduced or made unavailable in any way; or
  - (2) federal funding reduction results in reallocation of funds within the Agency.
- (c) If the Agency decides to reduce the compensation, the Agency shall send written Notice to the Contractor. Within twenty (20) Days of the Contractor's receipt of the Notice, the Contractor and the Agency shall negotiate the implementation of the reduction of compensation unless the parties mutually agree that such negotiations would be futile. If the parties fail to negotiate an implementation schedule, then the Agency may terminate the Contract effective no earlier than sixty (60) Days from the date that the Contractor receives written notification of Termination and the date that work under this Contract shall cease.

**2. Contractor Changes and Assignment.**

- (a) The Contractor shall notify the Agency in writing:
  - (1) at least sixty (60) days prior to the effective date or reasonable notice as required by law, of any fundamental changes in the Contractor's corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility;
  - (2) no later than ten (10) days from the effective date of any change in:

- (A) its certificate of incorporation or other organizational document;
  - (B) more than a controlling interest in the ownership of the Contractor; or
  - (C) the individual(s) in charge of the performance.
- (b) No such change shall relieve the Contractor of any responsibility for the accuracy and completeness of the performance. The Agency, after receiving written Notice from the Contractor of any such change, may require written assurances that such obligations, to any individuals retiring or otherwise separating from the Contractor have been compensated in full or that allowance has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such assurance to the Agency in accordance with the terms of the Agency's written request. The Agency may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to perform under the Contract until performance is fully completed.
- (c) **Assignment.** The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of the Agency. The Department does not intend to restrict the ability of the Contractor to conduct its business as it sees fit, but the Department reserves its right to cancel the contract in whole or in part if it is dissatisfied with the proposed assignment. Additionally:
- (1) The Contractor shall comply with requests for documentation deemed to be appropriate by the Agency in considering whether to consent to such assignment.
  - (2) The Agency shall notify the Contractor of its decision no later than forty-five (45) Days from the date the Agency receives all requested documentation.
  - (3) The Agency may void any assignment of this contract made without the Agency's consent and deem such assignment to be in violation of this Section and to be in Breach of the Contract. Any cancellation of this Contract by the Agency for a Breach shall be without prejudice to the Agency's or the State's rights or possible claims against the Contractor.

### 3. **Breach.**

- (a) If either party Breaches this Contract in any respect, the non-breaching party shall provide written notice of the Breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) Days from the date that the breaching party receives the notice. In the case of a Contractor Breach, the Agency may modify the ten (10) day cure period in the notice of Breach. The right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure, but the nature of the Breach is such that it cannot be cured within the right to cure period. The Notice may include an effective Contract Termination date if the Breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the Termination date, no further action shall be required of any party to effect the Termination as of the stated date. If the notice does not set forth an effective Contract Termination date, then the non-breaching party may terminate the Contract by giving the breaching party no less than twenty four (24) hours' prior written Notice after the expiration of the cure period.
- (b) If the Agency believes that the Contractor has not performed according to the Contract, the Agency may:

- (1) withhold payment in whole or in part pending resolution of the performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the budget;
  - (2) temporarily discontinue all or part of the Services to be provided under the Contract;
  - (3) permanently discontinue part of the Services to be provided under the Contract;
  - (4) assign appropriate State personnel to provide contracted for Services to assure continued performance under the Contract until such time as the contractual Breach has been corrected to the satisfaction of the Agency;
  - (5) require that contract funding be used to enter into a subcontract with a person or persons designated by the Agency in order to bring the program into contractual compliance;
  - (6) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the State or the program(s) provided under this Contract or both; or
  - (7) any combination of the above actions.
- (c) The Contractor shall return all unexpended funds to the Agency no later than thirty (30) calendar days after the Contractor receives a demand from the Agency.
  - (d) In addition to the rights and remedies granted to the Agency by this Contract, the Agency shall have all other rights and remedies granted to it by law in the event of Breach of or default by the Contractor under the terms of this Contract.
  - (e) The action of the Agency shall be considered final. If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the mutually agreed plan of correction, the Agency may proceed with Breach remedies as listed under this section.
4. **Non-enforcement Not to Constitute Waiver.** No waiver of any Breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity. A party's failure to insist on strict performance of any section of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.
  5. **Suspension.** If the Agency determines in its sole discretion that the health and welfare of the clients or public safety is being adversely affected, the Agency may immediately suspend in whole or in part the Contract without prior notice and take any action that it deems to be necessary or appropriate for the benefit of the clients. The Agency shall notify the Contractor of the specific reasons for taking such action in writing within five (5) Days of immediate suspension. Within five (5) Days of receipt of this notice, the Contractor may request in writing a meeting with the Agency Head or designee. Any such meeting shall be held within five (5) Days of the written request, or such later time as is mutually agreeable to the parties. At the meeting, the Contractor shall be given an opportunity to present information on why the Agency's actions should be reversed or modified. Within five (5) Days of such meeting, the Agency shall notify the Contractor in writing of his/her decision upholding, reversing or modifying the action of the Agency head or designee. This action of the Agency head or designee shall be considered final.
  6. **Ending the Contractual Relationship.**
    - (a) This Contract shall remain in full force and effect for the duration of its entire term or until such time as it is terminated earlier by either party. Either party may terminate this contract by providing at least sixty (60) days prior written notice pursuant to the Notice requirements of this Contract.

- (b) The Agency may immediately terminate the Contract in whole or in part whenever the Agency makes a determination that such termination is in the best interest of the State. Notwithstanding Section D.2, the Agency may immediately terminate or cancel this Contract in the event that the Contractor or any subcontractors becomes financially unstable to the point of threatening its ability to conduct the services required under this Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets.
- (c) The Agency shall notify the Contractor in writing of Termination pursuant to subsection (b) above, which shall specify the effective date of termination and the extent to which the Contractor must complete or immediately cease performance. Such Notice of Termination shall be sent in accordance with the Notice provision contained on page 1 of this Contract. Upon receiving the Notice from the Agency, the Contractor shall immediately discontinue all Services affected in accordance with the Notice, undertake all reasonable and necessary efforts to mitigate any losses or damages, and deliver to the Agency all Records as defined in Section A.12, unless otherwise instructed by the Agency in writing, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection of Clients and preservation of any and all property. Such Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the specified records whichever is less. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to ASCII or .TXT.
- (d) The Agency may terminate the Contract at any time without prior notice when the funding for the Contract is no longer available.
- (e) The Contractor shall deliver to the Agency any deposits, prior payment, advance payment or down payment if the Contract is terminated by either party within thirty (30) days after receiving demand from the Agency. The Contractor shall return to the Agency any funds not expended in accordance with the terms and conditions of the Contract and, if the Contractor fails to do so upon demand, the Agency may recoup said funds from any future payments owing under this Contract or any other contract between the State and the Contractor. Allowable costs, as detailed in audit findings, incurred until the date of termination for operation or transition of program(s) under this Contract shall not be subject to recoupment.

**7. Transition after Termination or Expiration of Contract.**

- (a) If this Contract is terminated for any reason or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly transfer of Clients served under this Contract and shall assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
- (b) If this Contract is terminated, cancelled or not renewed, the Contractor shall return to the Agency any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract in accordance with the written instructions from the Agency in accordance with the Notice provision of this Contract. Written instructions shall include, but not be limited to, a description of the equipment to be returned, where the equipment shall be returned to and who is responsible to pay for the delivery/shipping



costs. Unless the Agency specifies a shorter time frame in the letter of instructions, the Contractor shall affect the returns to the Agency no later than sixty (60) days from the date that the Contractor receives Notice.

**E. Statutory and Regulatory Compliance.**

**1. Health Insurance Portability and Accountability Act of 1996.**

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (“Agency”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Agency, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”), (Pub. L. 111-5, §§ 13400 to 13423)<sup>1</sup>, and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
  - (1) “Breach” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1)).
  - (2) “Business Associate” shall mean the Contractor.
  - (3) “Covered Entity” shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
  - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
  - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).
  - (6) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).

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<sup>1</sup> The effective date of the HITECH Act is February 17, 2010.

- (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
  - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
  - (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
  - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
  - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
  - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
  - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
  - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
  - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. §17932(h)(1)(A)).
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
  - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
  - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
  - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
  - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
  - (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.

- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with subsection (h)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate
  - (A) restrict disclosures of PHI;
  - (B) provide an accounting of disclosures of the individual's PHI; or
  - (C) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without
  - (A) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and

- (B) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach.
- (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. 17932(b) and this Section of the Contract.
- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402(g) of HITECH (42 U.S.C. 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
  2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
  3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
  4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
  5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.
- (D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a

written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.

- (E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (i) Permitted Uses and Disclosure by Business Associate.
  - (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
  - (2) Specific Use and Disclosure Provisions
    - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
    - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
    - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (j) Obligations of Covered Entity.
  - (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
  - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
  - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (h)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
  - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
  - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
  - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination.

- (A) Except as provided in (l)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (h)(10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Sections.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

2. **Americans with Disabilities Act.** The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (<http://www.ada.gov/>) as amended from time to time ("Act") to the extent applicable, during the term of the Contract. The Agency may cancel this Contract if the Contractor fails to comply with the Act. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it shall hold the State harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this Act. As applicable, the Contractor shall comply with section 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
3. **Utilization of Minority Business Enterprises.** The Contractor shall perform under this contract in accordance with 45 C.F.R. Part 74; and, as applicable, C.G.S. §§ 4a-60 to 4a-60a and 4a-60g to carry out this policy in the award of any subcontracts.
4. **Priority Hiring.** Subject to the Contractor's exclusive right to determine the qualifications for all employment positions, the Contractor shall give priority to hiring welfare recipients who are subject to time-limited welfare and must find employment. The Contractor and the Agency shall work cooperatively to determine the number and types of positions to which this Section shall apply.
5. **Non-discrimination.**
  - (a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

- (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved;
  - (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission;
  - (3) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (4) the Contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f;
  - (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and section 46a-56.
- (b) If the Contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
- (c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons:
- (1) Who are active in the daily affairs of the enterprise,
  - (2) who have the power to direct the management and policies of the enterprise and
  - (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and
- "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.
- (d) Determination of the Contractor's good faith efforts shall include but shall not be limited to the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and



such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

- (e) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (f) **The Contractor shall include the provisions of sections (a) and (b) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.**
- (g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:
  - (1) **the Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;**
  - (2) **the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;**
  - (3) **the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; and**
  - (4) **the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this section and section 46a-56.**
- (h) The Contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.
- (i) For the purposes of this entire Non-Discrimination section, "Contract" or "contract" includes any extension or modification of the Contract or contract, "Contractor" or "contractor" includes any successors or assigns of the Contractor or contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the

American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "Contract" does not include a contract where each contractor is

- (1) a political subdivision of the state, including, but not limited to, a municipality,
- (2) a quasi-public agency, as defined in C.G.S. § 1-120,
- (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in C.G.S. § 1-267,
- (4) the federal government,
- (5) a foreign government, or
- (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

**6. Freedom of Information.**

- (a) Contractor acknowledges that the Agency must comply with the Freedom of Information Act, C.G.S. §§ 1-200 *et seq.* ("FOIA") which requires the disclosure of documents in the possession of the State upon request of any citizen, unless the content of the document falls within certain categories of exemption, as defined by C.G.S. § 1-210(b).
- (b) Governmental Function. In accordance with C.G.S. § 1-218, if the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contractor is a "person" performing a "governmental function", as those terms are defined in C.G.S. §§ 1-200(4) and (11), the Agency is entitled to receive a copy of the Records and files related to the Contractor's performance of the governmental function, which may be disclosed by the Agency pursuant to the FOIA.

**7. Intentionally omitted.**

- 8. Campaign Contribution Restrictions.** For all State contracts as defined in C.G.S. § 9-612(g) the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's ("SEEC") notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See SEEC Form 11 reproduced below:

**NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN**

This notice is provided under the authority of Connecticut General Statutes § 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

Campaign Contribution and Solicitation Ban

No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

Duty to Inform

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

### Penalties for Violations

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

### Contract Consequences

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A. 07-1 may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to "State Contractor Contribution Ban."

### Definitions:

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100.

"Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, unaterial, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual. "Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate

committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

9. **Non-smoking.** If the Contractor is an employer subject to C.G.S. § 31-40q, the Contractor shall provide the Agency with a copy of its written rules concerning smoking. Evidence of compliance with C.G.S. § 31-40q must be received prior to Contract approval by the Agency.
  
  10. **Executive Orders.** This Contract is subject to Executive Order No. 3 of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices; Executive Order No. 17 of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings; Executive Order No. 16 of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace. This Contract may also be subject to Executive Order 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. All of these Executive orders are incorporated into and made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Agency shall provide a copy of these Orders to the Contractor.
5. All other terms and conditions not specifically amended herein shall remain in full force and effect.

**PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT**

CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

**OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION**

1. THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS OF SECTION 4-98 OF THE C.G.S., AS APPLICABLE.

11 ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> 1	12 IDENTIFICATION NO. 08DSS7402TE
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CONTRACTOR	13 CONTRACTOR NAME <b>FIRST DATA GOVERNMENT SOLUTIONS</b>	14 ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
	CONTRACTOR ADDRESS 11311 Cornell Park Drive, Suite 300, Cincinnati, Ohio 45242	CONTRACTOR FEIN/SSN 58-2582959

STATE AGENCY	15 AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106	16 AGENCY NO. DSS6000
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CONTRACT PERIOD	17 DATE (FROM) 09/01/2008	THROUGH (TO) 12/31/2010	18 INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER <input type="checkbox"/>
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CANCELLATION CLAUSE	19 THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).	20 REQUIRED NO. OF DAYS WRITTEN NOTICE. 30 days
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COMPLETE DESCRIPTION OF SERVICE	21 CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)	
	The Contractor shall continue to assist the Department in its effort to support the implementation of the competitively procured Modernization of Client Service Delivery project to include Online Web-Based Application, Integrated Document Management System and Integrated Voice Response System.	

COST AND SCHEDULE OF PAYMENT	22 PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.	
	No additional monies are added through this amendment. The cost and schedule of payment shall remain unchanged. 2400-3000 hours remain in the contract and will need to be paid out as costs are incurred.	

22 ACT CD	23 DOC TYP	24 COM TY P	25 LSE. TYP.	26 ORIG. AGCY	27 DOCUMENT NO.	28 COMMIT AGCY	29 COMMIT. NO.	30 VENDOR FEIN/SSN - SUFFIX
						DSS6000		

21 COMMITTED AMOUNT	22 OBLIGATED AMOUNT	23 CONTRACT PERIOD (FROM/TO)

Line No.	Budget Reference	Fund	Department	26		Account	29	30		Amount
				Program	SID			Chart 1	Chart 2	

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent Contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent Contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS		34 STATUTORY AUTHORITY 55 4- B, 17b-3	
35 CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) IN THE INTEREST OF TIME, THIS DOCUMENT MAY BE EXECUTED IN COUNTERPART. THERE ARE TWO ORIGINAL SIGNATURE PAGES TO THIS DOCUMENT.		TITLE	DATE
36 AGENCY (AUTHORIZED OFFICIAL)		Michael P. Starkowski, Commissioner	9/30/10
37 OFFICE OF POLICY & MGMT. DEPT. OF ADMIN. SERV.		John Grubmuller, Vice President, Government Professional Services	

38 ATTORNEY GENERAL (APPROVED AS TO FORM)	ASSOC. ATTY. GENERAL	10/17/10
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Whereas the Contract between the Parties was last executed on August 21, 2008; and

Whereas the Contractor still has work to perform under the current scope of the contract; and

Whereas the Department has yet to execute a contract with the Modernization of Client Service Delivery vendor; and

Whereas the Department still requires the services of the Contractor as originally contracted for;

Now therefore, the parties do hereby agree to the following:

1. The end date of the term of the contract shall be extended by three months from 9/30/10 to 12/31/10.
2. All references in the contract to this end date shall be altered to reflect the new end date.
3. No additional dollars will be added to the maximum contract value.
4. Part 2, Mandatory Terms and Conditions, of the original contract is deleted and replaced in its entirety with the following language:

## PART II. TERMS AND CONDITIONS

The Contractor shall comply with the following terms and conditions.

A. **Definitions.** Unless otherwise indicated, the following terms shall have the following corresponding definitions:

1. **“Bid”** shall mean a bid submitted in response to a solicitation.
2. **“Breach”** shall mean a party’s failure to perform some contracted-for or agreed-upon act, or his failure to comply with a duty imposed by law which is owed to another or to society.
3. **“Cancellation”** shall mean an end to the Contract affected pursuant to a right which the Contract creates due to a Breach.
4. **“Claims”** shall mean all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmaturing, contingent, known or unknown, at law or in equity, in any forum.
5. **“Client”** shall mean a recipient of the Contractor’s services.
6. **“Contract”** shall mean this agreement, as of its effective date, between the Contractor and the State for Services.
7. **“Contractor Parties”** shall mean a Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract (e.g. subcontractor) and the Contractor intends for such other person or entity to perform under the Contract in any capacity. For the purpose of this contract, vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program.
8. **“Data”** shall mean all results, technical information and materials developed and/or obtained in the performance of the Services hereunder, including but not limited to all reports, survey and evaluation tools, surveys and evaluations, plans, charts, recordings (video and/or sound), pictures, curricula, electronically prepared presentations, public awareness or prevention campaign materials, drawings, analyses, graphic

representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the Services performed hereunder.

9. **“Day”** shall mean all calendar days, other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
10. **“Expiration”** shall mean an end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract’s term being completed.
11. **“Force Majeure”** shall mean events that materially affect the Services or the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
12. **“Records”** shall mean all working papers and such other information and materials as may have been accumulated and/or produced by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
13. **“Services”** shall mean the performance of Services as stated in Part I of this Contract.
14. **“State”** shall mean the State of Connecticut, including any agency, office, department, board, council, commission, institution or other executive branch agency of State Government.
15. **“Termination”** shall mean an end to the Contract affected pursuant to a right which the Contract creates, other than for a Breach.

**B. Client-Related Safeguards.**

1. **Inspection of Work Performed.** The Agency or its authorized representative shall at all times have the right to enter into the Contractor’s premises, or such other places where duties under the Contract are being performed, to inspect, to monitor or to evaluate the work being performed. The Contractor and all subcontractors must provide all reasonable facilities and assistance to Agency representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. The Contractor shall disclose information on clients, applicants and their families as requested unless otherwise prohibited by federal or state law. Written evaluations pursuant to this Section shall be made available to the Contractor.
2. **Safeguarding Client Information.** The Agency and the Contractor shall safeguard the use, publication and disclosure of information on all applicants for and all Clients who receive Services under this Contract with all applicable federal and state law concerning confidentiality and as may be further provided under the Contract.
3. **Reporting of Client Abuse or Neglect.** The Contractor shall comply with all reporting requirements relative to Client abuse and neglect, including but not limited to requirements as specified in C.G.S. §§ 17a-101 through 103, 19a-216, 46b-120 (related to children); C.G.S. § 46a-11b (relative to persons with mental retardation); and C.G.S. § 17b-407 (relative to elderly persons).
4. **Background Checks.** The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Public Safety Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.

**C. Contractor Obligations.**

1. **Cost Standards.** Effective January 1, 2007, the Contractor and funding state Agency shall comply with the Cost Standards issued by OPM, as may be amended from time to time. The Cost Standards are published by OPM on the Web at [http://ct.gov/opm/fin/cost\\_standards](http://ct.gov/opm/fin/cost_standards). Such Cost Standards shall apply to:
  - (a) all new contracts effective on or after January 1, 2007;
  - (b) all contract amendments modifying funding, effective on or after January 1, 2007;
  - (c) all contracts in effect on or after July 1, 2007.
  
2. **Credits and Rights in Data.** Unless expressly waived in writing by the Agency, all Records and publications intended for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the State and the Agency and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify and hold harmless the Agency, unless the Agency or its agents co-authored said publication and said release is done with the prior written approval of the Agency Head. All publications shall contain the following statement: "This publication does not express the views of the [insert Agency name] or the State of Connecticut. The views and opinions expressed are those of the authors." Neither the Contractor nor any of its agents shall copyright Data and information obtained under this Contract, unless expressly previously authorized in writing by the Agency. The Agency shall have the right to publish, duplicate, use and disclose all such Data in any manner, and may authorize others to do so. The Agency may copyright any Data without prior Notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Agency of such Data.
  
3. **Organizational Information, Conflict of Interest, IRS Form 990.** During the term of the Contract and the 180 days following its date of Termination and/or Cancellation, the Contractor shall submit to the Agency copies of the following within thirty (30) days after having filed them:
  - (a) its most recent IRS Form 990 submitted to the federal Internal Revenue Service, and
  - (b) its most recent Annual Report filed with the Connecticut Secretary of the State's Office or such other information that the Agency deems appropriate with respect to the organization and affiliation of the Contractor and related entities.
  
4. **Federal Funds.**
  - (a) The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Agency shall specify all such requirements in Part I of this Contract.
  - (b) The Contractor acknowledges that the Agency has established a policy, as mandated by section 6032 of the Deficit Reduction Act (DRA) of 2005, P.L. 109-171, that provides detailed information about the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and other laws supporting the detection and prevention of fraud and abuse.
    - (1) Contractor acknowledges that is has received a copy of said policy and shall comply with its terms, as amended, and with all applicable state and federal laws, regulations and rules. Contractor shall provide said policy to subcontractors and shall require compliance with the terms of the policy. Failure to abide by the terms of the policy, as determined by



the Agency, shall constitute a Breach of this Contract and may result in termination of this Contract.

- (c) This section applies if, under this Contract, the Contractor or Contractor Parties furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the Agency.
- (d) Contractor represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs.
- (e) Contractor shall not, for purposes of performing the Contract with the Agency, knowingly employ or contract with, with or without compensation: (A) any individual or entity listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs; or (B) any person or entity who is excluded from contracting with the State of Connecticut or the federal government (as reflected in the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Department of Health and Human Services, Office of Inspector General (HHS/OIG) Excluded Parties list and the Office of Foreign Assets Control (OFAC) list of Specially Designated Nationals and Blocked Persons List). Contractor shall immediately notify the Agency should it become subject to an investigation or inquiry involving items or services reimbursable under a federal health care program or be listed as ineligible for participation in or to perform services in connection with such program. The Agency may terminate this Contract immediately if at any point the Contractor, subcontractor or any of their employees are sanctioned, suspended, excluded from or otherwise become ineligible to participate in federal health care programs.

**5. Audit Requirements.**

- (a) The State Auditors of Public Accounts shall have access to all Records for the fiscal year(s) in which the award was made. The Contractor shall provide for an annual financial audit acceptable to the Agency for any expenditure of state-awarded funds made by the Contractor. Such audit shall include management letters and audit recommendations. The Contractor shall comply with federal and state single audit standards as applicable.
- (b) The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State, including, but not limited to, the Agency, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents. Requests for any audit or inspection shall be in writing, at least ten (10) days prior to the requested date. All audits and inspections shall be at the requester's expense. The State may request an audit or inspection at any time during the Contract term and for three (3) years after Termination, Cancellation or Expiration of the Contract. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (c) For purposes of this subsection as it relates to State grants, the word "Contractor" shall be read to mean "nonstate entity," as that term is defined in C.G.S. § 4-230.

**6. Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this section, to the Agency on an annual basis in the appropriate fiscal report as specified in Part I of this Contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor or Contractor Party and a related party include, but are not limited to:

- (a) real estate sales or leases;

- (b) leases for equipment, vehicles or household furnishings;
- (c) mortgages, loans and working capital loans; and
- (d) contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor or Contractor Party.

**7. Suspension or Debarment.** In addition to the representations and requirements set forth in Section D.4:

- (a) The Contractor certifies for itself and Contractor Parties involved in the administration of federal or state funds that they:
  - (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental agency (federal, state or local);
  - (2) within a three year period preceding the effective date of this Contract, have not been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
  - (3) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the above offenses; (4) have not within a three year period preceding the effective date of this Contract had one or more public transactions terminated for cause or fault.
- (b) Any change in the above status shall be immediately reported to the Agency.

**8. Liaison.** Each Party shall designate a liaison to facilitate a cooperative working relationship between the Contractor and the Agency in the performance and administration of this Contract.

**9. Subcontracts.** Each Contractor Party's identity, services to be rendered and costs shall be detailed in Part I of this Contract. Absent compliance with this requirement, no Contractor Party may be used or expense paid under this Contract unless expressly otherwise provided in Part I of this Contract. No Contractor Party shall acquire any direct right of payment from the Agency by virtue of this section or any other section of this Contract. The use of Contractor Parties shall not relieve the Contractor of any responsibility or liability under this Contract. The Contractor shall make available copies of all subcontracts to the Agency upon request.

**10. Independent Capacity of Contractor.** The Contractor and Contractor Parties shall act in an independent capacity and not as officers or employees of the state of Connecticut or of the Agency.

**11. Indemnification.**

- (a) The Contractor shall indemnify, defend and hold harmless the state of Connecticut and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all:
  - (1) claims arising directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively the "Acts") of the Contractor or Contractor Parties; and

- (2) liabilities, damages, losses, costs and expenses, including but not limited to attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its indemnification and hold-harmless obligations under this Contract. The Contractor's obligations under this section to indemnify, defend and hold harmless against claims includes claims concerning confidentiality of any part of or all of the bid or any records, and intellectual property rights, other propriety rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance of the Contract.
- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such claims.
- (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the claims.
- (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any sections survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the Contract. The Contractor shall not begin performance until the delivery of the policy to the Agency.
- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a claim against a third party.
- (f) This section shall survive the Termination, Cancellation or Expiration of the Contract, and shall not be limited by reason of any insurance coverage.

**12. Insurance.** Before commencing performance, the Agency may require the Contractor to obtain and maintain specified insurance coverage. In the absence of specific Agency requirements, the Contractor shall obtain and maintain the following insurance coverage at its own cost and expense for the duration of the Contract:

- (a) **Commercial General Liability.** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability, and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the services to be performed under this Contract or the general aggregate limit shall be twice the occurrence limit;
- (b) **Automobile Liability.** \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of this Contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of this Contract then automobile coverage is not required.
- (c) **Professional Liability.** \$1,000,000 limit of liability, if applicable; and/or

- (d) Workers' Compensation and Employers Liability. Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

**13. Choice of Law/Choice of Forum, Settlement of Disputes, Claims Against the State.**

- (a) The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
- (b) Any dispute concerning the interpretation or application of this Contract shall be decided by the Agency Head or his/her designee whose decision shall be final, subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the Agency Head pursuant to this section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Agency shall proceed diligently with the performance of the Contract.
- (c) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Title 4, Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings, except as authorized by that Chapter, in any state or federal court in addition to or in lieu of said Chapter 53 proceedings.

**14. Compliance with Law and Policy, Facility Standards and Licensing.** Contractor shall comply with all:

- (a) pertinent local, state and federal laws and regulations as well as Agency policies and procedures applicable to contractor's programs as specified in this Contract. The Agency shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Agency has responsibility to promulgate or enforce; and
- (b) applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

**15. Representations and Warranties.** Contractor shall:

- (a) perform fully under the Contract;
- (b) pay for and/or secure all permits, licenses and fees and give all required or appropriate notices with respect to the provision of Services as described in Part I of this Contract; and

- (c) adhere to all contractual sections ensuring the confidentiality of all Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law.
16. **Reports.** The Contractor shall provide the Agency with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the Contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor shall provide the Agency with such reports as the Agency requests as required by this Contract.
17. **Delinquent Reports.** The Contractor shall submit required reports by the designated due dates as identified in this Contract. After notice to the Contractor and an opportunity for a meeting with an Agency representative, the Agency reserves the right to withhold payments for services performed under this Contract if the Agency has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this Contract or previous contracts for similar or equivalent services the Contractor has entered into with the Agency. This section shall survive any Termination of the Contract or the Expiration of its term.
18. **Record Keeping and Access.** The Contractor shall maintain books, Records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this Contract. These Records shall be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of the State or, where applicable, federal agencies. The Contractor shall retain all such Records concerning this Contract for a period of three (3) years after the completion and submission to the State of the Contractor's annual financial audit.
19. **Encryption of Data.**
- (a) The Contractor, at its own expense, shall encrypt any and all electronically stored data now or hereafter in its possession or control located on non-state owned or managed devices that the State, in accordance with its existing state policies classifies as confidential or restricted. The method of encryption shall be compliant with the State of Connecticut Enterprise Wide Technical Architecture ("EWTA") or such other method as deemed acceptable by the Agency. This shall be a continuing obligation for compliance with the EWTA standard as it may change from time to time. The EWTA domain architecture documents can be found at <http://www.ct.gov/doit/cwp/view.asp?a=1245&q=253968>.
- (b) In the event of a breach of security or loss of State data, the Contractor shall notify the Agency and the OAG as soon as practical but not later than twenty-four (24) hours after the discovery or suspicion of such breach or loss that such data has been comprised through breach or loss. The requirements of this section are in addition to those that may apply under Part II, Section E.
20. **Workforce Analysis.** The Contractor shall provide a workforce Analysis Affirmative Action report related to employment practices and procedures.
21. **Litigation.**
- (a) The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
- (b) The Contractor shall provide written Notice to the Agency of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement,

compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990 as revised or amended from time to time, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other requirements of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

22. **Sovereign Immunity.** The Contractor and Contractor Parties acknowledge and agree that nothing in the Contract, or the solicitation leading up to the Contract, shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this Section conflicts with any other Section, this Section shall govern.

**Section D. Changes To The Contract, Termination, Cancellation and Expiration.**

**1. Contract Amendment.**

- (a) No amendment to or modification or other alteration of this Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the Connecticut Attorney General.
- (b) The Agency may amend this Contract to reduce the contracted amount of compensation if:
  - (1) the total amount budgeted by the State for the operation of the Agency or Services provided under the program is reduced or made unavailable in any way; or
  - (2) federal funding reduction results in reallocation of funds within the Agency.
- (c) If the Agency decides to reduce the compensation, the Agency shall send written Notice to the Contractor. Within twenty (20) Days of the Contractor's receipt of the Notice, the Contractor and the Agency shall negotiate the implementation of the reduction of compensation unless the parties mutually agree that such negotiations would be futile. If the parties fail to negotiate an implementation schedule, then the Agency may terminate the Contract effective no earlier than sixty (60) Days from the date that the Contractor receives written notification of Termination and the date that work under this Contract shall cease.

**2. Contractor Changes and Assignment.**

- (a) The Contractor shall notify the Agency in writing:
  - (1) at least ninety (90) days prior to the effective date of any fundamental changes in the Contractor's corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility;
  - (2) no later than ten (10) days from the effective date of any change in:
    - (A) its certificate of incorporation or other organizational document;
    - (B) more than a controlling interest in the ownership of the Contractor; or
    - (C) the individual(s) in charge of the performance.
- (b) No such change shall relieve the Contractor of any responsibility for the accuracy and completeness of the performance. The Agency, after receiving written Notice from the

Contractor of any such change, may require such contracts, releases and other instruments evidencing, to the Agency's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that allowance has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to the Agency in accordance with the terms of the Agency's written request. The Agency may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to perform under the Contract until performance is fully completed.

- (c) Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of the Agency.
  - (1) The Contractor shall comply with requests for documentation deemed to be appropriate by the Agency in considering whether to consent to such assignment.
  - (2) The Agency shall notify the Contractor of its decision no later than forty-five (45) Days from the date the Agency receives all requested documentation.
  - (3) The Agency may void any assignment made without the Agency's consent and deem such assignment to be in violation of this Section and to be in Breach of the Contract. Any cancellation of this Contract by the Agency for a Breach shall be without prejudice to the Agency's or the State's rights or possible claims against the Contractor.

### 3. Breach.

- (a) If either party Breaches this Contract in any respect, the non-breaching party shall provide written notice of the Breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) Days from the date that the breaching party receives the notice. In the case of a Contractor Breach, the Agency may modify the ten (10) day cure period in the notice of Breach. The right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure, but the nature of the Breach is such that it cannot be cured within the right to cure period. The Notice may include an effective Contract Termination date if the Breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the Termination date, no further action shall be required of any party to effect the Termination as of the stated date. If the notice does not set forth an effective Contract Termination date, then the non-breaching party may terminate the Contract by giving the breaching party no less than twenty four (24) hours' prior written Notice after the expiration of the cure period.
- (b) If the Agency believes that the Contractor has not performed according to the Contract, the Agency may:
  - (1) withhold payment in whole or in part pending resolution of the performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the budget;
  - (2) temporarily discontinue all or part of the Services to be provided under the Contract;
  - (3) permanently discontinue part of the Services to be provided under the Contract;
  - (4) assign appropriate State personnel to provide contracted for Services to assure continued performance under the Contract until such time as the contractual Breach has been corrected to the satisfaction of the Agency;

- (5) require that contract funding be used to enter into a subcontract with a person or persons designated by the Agency in order to bring the program into contractual compliance;
  - (6) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the State or the program(s) provided under this Contract or both; or
  - (7) any combination of the above actions.
- (c) The Contractor shall return all unexpended funds to the Agency no later than thirty (30) calendar days after the Contractor receives a demand from the Agency.
- (d) In addition to the rights and remedies granted to the Agency by this Contract, the Agency shall have all other rights and remedies granted to it by law in the event of Breach of or default by the Contractor under the terms of this Contract.
- (e) The action of the Agency shall be considered final. If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the mutually agreed plan of correction, the Agency may proceed with Breach remedies as listed under this section.
4. **Non-enforcement Not to Constitute Waiver.** No waiver of any Breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity. A party's failure to insist on strict performance of any section of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.
5. **Suspension.** If the Agency determines in its sole discretion that the health and welfare of the clients or public safety is being adversely affected, the Agency may immediately suspend in whole or in part the Contract without prior notice and take any action that it deems to be necessary or appropriate for the benefit of the clients. The Agency shall notify the Contractor of the specific reasons for taking such action in writing within five (5) Days of immediate suspension. Within five (5) Days of receipt of this notice, the Contractor may request in writing a meeting with the Agency Head or designee. Any such meeting shall be held within five (5) Days of the written request, or such later time as is mutually agreeable to the parties. At the meeting, the Contractor shall be given an opportunity to present information on why the Agency's actions should be reversed or modified. Within five (5) Days of such meeting, the Agency shall notify the Contractor in writing of his/her decision upholding, reversing or modifying the action of the Agency head or designee. This action of the Agency head or designee shall be considered final.
6. **Ending the Contractual Relationship.**
- (a) This Contract shall remain in full force and effect for the duration of its entire term or until such time as it is terminated earlier by either party. Either party may terminate this contract by providing at least sixty (60) days prior written notice pursuant to the Notice requirements of this Contract.
  - (b) The Agency may immediately terminate the Contract in whole or in part whenever the Agency makes a determination that such termination is in the best interest of the State. Notwithstanding Section D.2, the Agency may immediately terminate or cancel this Contract in the event that the Contractor or any subcontractors becomes financially unstable to the point of threatening its ability to conduct the services required under this Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets.
  - (c) The Agency shall notify the Contractor in writing of Termination pursuant to subsection (b) above, which shall specify the effective date of termination and the extent to which the Contractor



must complete or immediately cease performance. Such Notice of Termination shall be sent in accordance with the Notice provision contained on page 1 of this Contract. Upon receiving the Notice from the Agency, the Contractor shall immediately discontinue all Services affected in accordance with the Notice, undertake all reasonable and necessary efforts to mitigate any losses or damages, and deliver to the Agency all Records as defined in Section A.12, unless otherwise instructed by the Agency in writing, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection of Clients and preservation of any and all property. Such Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the specified records whichever is less. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to ASCII or .TXT.

- (d) The Agency may terminate the Contract at any time without prior notice when the funding for the Contract is no longer available.
- (e) The Contractor shall deliver to the Agency any deposits, prior payment, advance payment or down payment if the Contract is terminated by either party within thirty (30) days after receiving demand from the Agency. The Contractor shall return to the Agency any funds not expended in accordance with the terms and conditions of the Contract and, if the Contractor fails to do so upon demand, the Agency may recoup said funds from any future payments owing under this Contract or any other contract between the State and the Contractor. Allowable costs, as detailed in audit findings, incurred until the date of termination for operation or transition of program(s) under this Contract shall not be subject to recoupment.

#### **7. Transition after Termination or Expiration of Contract.**

- (a) If this Contract is terminated for any reason or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly transfer of Clients served under this Contract and shall assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
- (b) If this Contract is terminated, cancelled or not renewed, the Contractor shall return to the Agency any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract in accordance with the written instructions from the Agency in accordance with the Notice provision of this Contract. Written instructions shall include, but not be limited to, a description of the equipment to be returned, where the equipment shall be returned to and who is responsible to pay for the delivery/shipping costs. Unless the Agency specifies a shorter time frame in the letter of instructions, the Contractor shall affect the returns to the Agency no later than sixty (60) days from the date that the Contractor receives Notice.

#### **E. Statutory and Regulatory Compliance.**

##### **1. Health Insurance Portability and Accountability Act of 1996.**

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all

terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.

- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (“Agency”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Agency, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”), (Pub. L. 111-5, §§ 13400 to 13423)<sup>1</sup>, and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
  - (1) “Breach” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1)).
  - (2) “Business Associate” shall mean the Contractor.
  - (3) “Covered Entity” shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
  - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
  - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).
  - (6) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
  - (7) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
  - (8) “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
  - (9) “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.

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<sup>1</sup> The effective date of the HITECH Act is February 17, 2010.

- (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
  - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
  - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
  - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
  - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
  - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. §17932(h)(1)(A)).
- (h) **Obligations and Activities of Business Associates.**
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
  - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
  - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
  - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
  - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
  - (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
  - (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
  - (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
  - (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from,

or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with subsection (h)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate
  - (A) restrict disclosures of PHI;
  - (B) provide an accounting of disclosures of the individual's PHI; or
  - (C) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without
  - (A) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and
  - (B) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach.
  - (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. 17932(b) and this Section of the Contract.

- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402(g) of HITECH (42 U.S.C. 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
  2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
  3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
  4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
  5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.
- (D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
- (E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (i) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities,

or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

(2) Specific Use and Disclosure Provisions

- (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations of Covered Entity.

- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(k) **Permissible Requests by Covered Entity.** Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

- (1) **Term.** The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (h)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) **Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate,** Covered Entity shall either:

- (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
- (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
- (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination.

- (A) Except as provided in (1)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (h)(10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Sections.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own

purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.

(7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

2. **Americans with Disabilities Act.** The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (<http://www.ada.gov/>) as amended from time to time ("Act") to the extent applicable, during the term of the Contract. The Agency may cancel this Contract if the Contractor fails to comply with the Act. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it shall hold the State harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this Act. As applicable, the Contractor shall comply with section 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
3. **Utilization of Minority Business Enterprises.** The Contractor shall perform under this contract in accordance with 45 C.F.R. Part 74; and, as applicable, C.G.S. §§ 4a-60 to 4a-60a and 4a-60g to carry out this policy in the award of any subcontracts.
4. **Priority Hiring.** Subject to the Contractor's exclusive right to determine the qualifications for all employment positions, the Contractor shall give priority to hiring welfare recipients who are subject to time-limited welfare and must find employment. The Contractor and the Agency shall work cooperatively to determine the number and types of positions to which this Section shall apply.
5. **Non-discrimination.**
  - (a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:
    - (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved;



- (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an “affirmative action-equal opportunity employer” in accordance with regulations adopted by the commission;
  - (3) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers’ representative of the Contractor’s commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (4) the Contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f;
  - (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and section 46a-56.
- (b) If the Contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
- (c) “Minority business enterprise” means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons:
- (1) Who are active in the daily affairs of the enterprise,
  - (2) who have the power to direct the management and policies of the enterprise and
  - (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and
- “good faith” means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. “Good faith efforts” shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.
- (d) Determination of the Contractor's good faith efforts shall include but shall not be limited to the following factors: The Contractor’s employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (e) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (f) The Contractor shall include the provisions of sections (a) and (b) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a

**subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.**

- (g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:
- (1) the Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
  - (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; and
  - (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this section and section 46a-56.
- (h) The Contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.
- (i) For the purposes of this entire Non-Discrimination section, "Contract" or "contract" includes any extension or modification of the Contract or contract, "Contractor" or "contractor" includes any successors or assigns of the Contractor or contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "Contract" does not include a contract where each contractor is
- (1) a political subdivision of the state, including, but not limited to, a municipality,
  - (2) a quasi-public agency, as defined in C.G.S. § 1-120,
  - (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in C.G.S. § 1-267,
  - (4) the federal government,

- (5) a foreign government, or
- (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

**6. Freedom of Information.**

- (a) Contractor acknowledges that the Agency must comply with the Freedom of Information Act, C.G.S. §§ 1-200 *et seq.* (“FOIA”) which requires the disclosure of documents in the possession of the State upon request of any citizen, unless the content of the document falls within certain categories of exemption, as defined by C.G.S. § 1-210(b).
- (b) Governmental Function. In accordance with C.G.S. § 1-218, if the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contractor is a “person” performing a “governmental function”, as those terms are defined in C.G.S. §§ 1-200(4) and (11), the Agency is entitled to receive a copy of the Records and files related to the Contractor’s performance of the governmental function, which may be disclosed by the Agency pursuant to the FOIA.

**7. Whistleblowing.** This Contract is subject to C.G.S. § 4-61dd if the amount of this Contract is a “large state contract” as that term is defined in C.G.S. § 4-61dd(h). In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee’s disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars (\$5,000) for each offense, up to a maximum of twenty per cent (20%) of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day’s continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the relevant sections of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

**8. Campaign Contribution Restrictions.** For all State contracts as defined in C.G.S. § 9-612(g) the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission’s (“SEEC”) notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See SEEC Form 11 reproduced below:

**NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN**

This notice is provided under the authority of Connecticut General Statutes § 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

***Campaign Contribution and Solicitation Ban***

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or *solicit* contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

#### Duty to Inform

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

#### Penalties for Violations

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

#### Contract Consequences

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A. 07-1 may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/secc](http://www.ct.gov/secc). Click on the link to "State Contractor Contribution Ban."

#### Definitions:

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100.

"Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual. "Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

9. **Non-smoking.** If the Contractor is an employer subject to C.G.S. § 31-40q, the Contractor shall provide the Agency with a copy of its written rules concerning smoking. Evidence of compliance with C.G.S. § 31-40q must be received prior to Contract approval by the Agency.
  
10. **Executive Orders.** This Contract is subject to Executive Order No. 3 of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices; Executive Order No. 17 of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings; Executive Order No. 16 of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace. This Contract may also be subject to Executive Order 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. All of these Executive orders are incorporated into and made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Agency shall provide a copy of these Orders to the Contractor.



## A. OBJECTIVES

The Connecticut Department of Social Services (hereinafter referred to as the "Department" or "DSS") issued a Request for Proposals (RFP) to procure the services of a professional consultant organization to perform specified services that will assist the Department in its effort to support the development and implementation of a competitive process to procure and implement a Modernization of Client Service Delivery to include Online Web-Based Application, Integrated Document Management System and Integrated Voice Response System. The following Contractor deliverables delineate the full scope and responsibilities of Contractor services. First Data Government Solutions (hereinafter referred to as the "Contractor" or "First Data") was selected through the RFP process to enter into this contract for the identified services.

## B. CONTRACT TERM

The Contract shall be in effect through completion of the Modernization of Client Service Delivery with a term of 09/01/08 through 09/30/10.

## C. CONTRACT DELIVERABLES

The Contractor's compliance with the performance of responsibilities shall be measured by the Contractor's submission and the Department's acceptance and approval of the deliverables set forth in this section. The due dates for each of the deliverables shall be identified in the Project Work Plan. As appropriate, deliverables shall be submitted to the Department in draft (one portable document format (pdf) copy and one editable electronic copy), allowing the Department the opportunity to review and suggest revisions to the Contractor. The Contractor shall accomplish the deliverables in a form and fashion proscribed by the Department. The Department's Project Manager shall consolidate the Department's comments to the deliverable and provide the same to the Contractor. The Contractor shall revise the deliverable based on the Department's comments and submit the final deliverable to the Department for its review and acceptance. The time frames for the submission of these draft deliverables, the submission of comments from the Department to the Contractor, the Contractor's submission of the final deliverable, and the Department's acceptance and approval shall be identified in the Project Work Plan and complied with by the parties.

The Contractor will submit monthly invoices to the Department based on actual hours worked, showing the number of hours allocated to each deliverable highlighted in **BOLD** in Section F of this contract. Provided the Contractor is not in default of this contract, the Department shall pay the Contractor for the amount of time and materials utilized within thirty (30) days receipt of Contractor's request for payment. The Contractor may shift hours between the deliverables, so long as the Contractor:

- ❖ Receives written permission from the Department for any alteration above or below 10% of the anticipated value of the deliverable;
- ❖ Performs all deliverables as outlined herein to the specifications and approval of the Department; and
- ❖ Does not exceed the maximum budget of the project.

The Contractor shall be responsible for the following:

1) **Work Plan:**

A work plan identifying a schedule for completing all duties and responsibilities included in this project is required. The work plan will identify tasks and subtasks necessary to successfully complete project deliverables.

**Deliverable: Project Work Plan**

2) **Develop an Approach for the Modernization Project:**

The Contractor must evaluate and propose a sound approach that will be both cost effective and efficient to satisfy the requirements of the Modernization project.

**Deliverable: Modernization Project Solution Document**

3) Develop Functional Requirements Document:

The Contractor will meet with State staff in order to define and develop the requirements definition. The Contractor will provide the Department with best practices and known, sound technologies to support the Department's requirements. The Contractor shall describe the process that will be used to gather input from State staff, and based on that input, shall develop a functional requirements document that describes all functions to be supported by the Modernization Project.

**Deliverable: Functional Requirements Document**

4) Conduct a Feasibility Study and Cost Benefit Analysis:

The Contractor shall identify costs and benefits relative to potential Modernization Project solutions that satisfy the Department's requirements, taking into consideration custom development vs. transferable solutions (from other States) vs. off the shelf. The Contractor will also identify the costs and benefits to maintain the implemented solution in-house vs. outsourced. The Contractor should also identify new processes or components of the Modernization Project that would be of benefit to the state.

**Deliverable: Cost Benefit Analysis Document**

5) Identify and Prepare any Federal Planning Documents:

Incorporate the findings from all of the activities described above and include all federally mandated requirements for prior approval and subsequent submission.

**Deliverable: Federal Planning Documents**

6) Prepare the Request for Proposals:

The RFP will be used to procure contracted services for the Modernization Project solution based upon Department specifications. The RFP must include all necessary information for potential bidders to fully understand the scope of services and must state requirements of the desired solution in order for submission of a comprehensive and competitive proposal to be approved. This document will be submitted to identified entities for review and prior approval.

**Deliverable: Implementation of Request for Proposal**

7) Provide Procurement Assistance:

The Contractor shall assist the Department's procurement staff in the evaluation and selection of the Modernization Contractor which will include:

- a) Developing a tool to score the proposals
- b) Facilitating State proposal review sessions
- c) Assisting with contract development and review

**Deliverable: Scoring Tool, Scoring Protocol**

8) Prepare Federal Planning Document(s) Updates:

The Contractor shall prepare and submit the required Federal Planning Document(s) updates on a timely basis.

**Deliverable: Timely Federal Planning Document(s) Updates to Identified Entities**

9) Develop Quality Assurance Procedures and Provide Monitoring:



## A. OBJECTIVES

The Connecticut Department of Social Services (hereinafter referred to as the "Department" or "DSS") issued a Request for Proposals (RFP) to procure the services of a professional consultant organization to perform specified services that will assist the Department in its effort to support the development and implementation of a competitive process to procure and implement a Modernization of Client Service Delivery to include Online Web-Based Application, Integrated Document Management System and Integrated Voice Response System. The following Contractor deliverables delineate the full scope and responsibilities of Contractor services. First Data Government Solutions (hereinafter referred to as the "Contractor" or "First Data") was selected through the RFP process to enter into this contract for the identified services.

## B. CONTRACT TERM

The Contract shall be in effect through completion of the Modernization of Client Service Delivery with a term of 09/01/08 through 09/30/10.

## C. CONTRACT DELIVERABLES

The Contractor's compliance with the performance of responsibilities shall be measured by the Contractor's submission and the Department's acceptance and approval of the deliverables set forth in this section. The due dates for each of the deliverables shall be identified in the Project Work Plan. As appropriate, deliverables shall be submitted to the Department in draft (one portable document format (pdf) copy and one editable electronic copy), allowing the Department the opportunity to review and suggest revisions to the Contractor. The Contractor shall accomplish the deliverables in a form and fashion proscribed by the Department. The Department's Project Manager shall consolidate the Department's comments to the deliverable and provide the same to the Contractor. The Contractor shall revise the deliverable based on the Department's comments and submit the final deliverable to the Department for its review and acceptance. The time frames for the submission of these draft deliverables, the submission of comments from the Department to the Contractor, the Contractor's submission of the final deliverable, and the Department's acceptance and approval shall be identified in the Project Work Plan and complied with by the parties.

The Contractor will submit monthly invoices to the Department based on actual hours worked, showing the number of hours allocated to each deliverable highlighted in **BOLD** in Section F of this contract. Provided the Contractor is not in default of this contract, the Department shall pay the Contractor for the amount of time and materials utilized within thirty (30) days receipt of Contractor's request for payment. The Contractor may shift hours between the deliverables, so long as the Contractor:

- ❖ Receives written permission from the Department for any alteration above or below 10% of the anticipated value of the deliverable;
- ❖ Performs all deliverables as outlined herein to the specifications and approval of the Department; and
- ❖ Does not exceed the maximum budget of the project.

The Contractor shall be responsible for the following:

1) Work Plan:

A work plan identifying a schedule for completing all duties and responsibilities included in this project is required. The work plan will identify tasks and subtasks necessary to successfully complete project deliverables.

**Deliverable: Project Work Plan**

2) Develop an Approach for the Modernization Project:

In conjunction with identified Department staff, the Contractor shall develop project monitoring procedures to insure the successful implementation of the Modernization Project. This includes procedures to monitor and resolve issues regarding:

- a) Project Scope: The Requirement Definition document produced by the implementation Contractor will define project scope. The Contractor shall be the monitoring Contractor and, as such, will be responsible for developing procedures to identify and resolve scope issues.
- b) Project Schedule: The implementation Contractor's final work plan will outline the project schedule. The Contractor shall be the monitoring Contractor and, as such, shall develop procedures to monitor and manage the schedule, as well as identify and resolve delays.
- c) Project Expenditures: The Contractor shall be the monitoring Contractor and, as such, shall develop methods to track and report on all project expenditures.
- d) Technical Compliance: The Contractor shall be the monitoring Contractor and, as such, shall develop procedures to monitor compliance with all technical standards including capacity issues, hardware and software specifications, response time, system availability, storage capacity and code efficiency.
- e) Issues Tracking: The Contractor shall be the monitoring Contractor and shall be responsible for reporting project issues including, but not limited to, federal regulation changes, HIPAA changes, Contractor staffing, or state staffing and funding issues that may impact the progress of the project.

**Deliverable: Monitoring Plan for Implementation of the Modernization Project**

10) Review Technical Systems Design:

The Contractor, as the monitoring Contractor shall review and advise the Department on issues concerning the implementation Contractor's technical system design. The monitoring Contractor must complete such reviews and provide written comments to the Department on a timely basis to allow the Department to evaluate and incorporate those comments into the State's formal response to the implementation Contractor. The monitoring Contractor will meet with the Department and the implementation Contractor to discuss technical design issues. The monitoring Contractor will arrange these meetings through the Department. The monitoring Contractor's evaluation report will discuss the pros and cons of each issue and make recommendations based on the technical design meetings. First Data will review:

- a) System architecture including hardware configuration and telecommunication-connectivity requirements;
- b) Overall logical design and processing efficiency;
- c) Screen layouts;
- d) Data validation, error detection and error correction procedures;
- e) Data flow processes;
- f) Logical and physical database designs;
- g) Organization of data structures, access methods and update procedures;
- h) Systems availability and response time (end to end) and potential bottlenecks; and
- i) User interface design.

**Deliverable: Technical Systems Design Evaluation Report**

11) Perform Acceptance Testing and Pilot Evaluation:

In conjunction with identified experienced Department staff, the Contractor, as the monitoring Contractor, shall perform all facets of acceptance testing including, but not limited to:

a) Test witnessing of the implementation Contractor's Integration Test, System Test, Performance Test, Security Test, and Recovery Test. This includes reviewing and confirming test environments and tool configuration, validation of the test data, witnessing of test execution, and reviewing test results to ensure that requirements are met. Additionally, this will include the management of defect identification and tracking, and the issuance of testing status reports.

b) Independent Testing will be performed by the monitoring Contractor and will include the development, implementation, and execution of test plans, the management of defect identification and tracking, and the issuance of testing status reports.

c) User Acceptance Testing will be managed by the monitoring Contractor and will include the development and implementation of test plans, the management of defect identification and tracking, and the issuance of testing status reports.

The monitoring Contractor will also review the implementation Contractor's acceptance test plan to insure that the plan identifies all aspects of an operational system, including training, user documentation, technical system environment and system functionality, based on the contractual obligations of the implementation contractor. The monitoring Contractor will also develop criteria to determine readiness to move to pilot testing, if necessary, and then to statewide implementation.

**Deliverables: Test Plans, Defect Identification and Tracking, Testing Status Reports**

12) Review All Project Deliverables:

The Contractor, as the monitoring Contractor, shall review each implementation Contractor deliverable and prepare a written critique of the deliverable. The monitoring Contractor must complete such reviews and provide written comments to the Department timely to allow the Department to evaluate and incorporate those comments into the Department's formal response to the implementation Contractor.

**Deliverable: Project Deliverable Reports**

13) Project Status Reports:

The Contractor shall be the monitoring Contractor and, as such, shall produce timely status reports. At a minimum, these reports will be produced on monthly status reports and will track project progress, list issues, document resolved issues, and provide information on other issues that may impact the project.

**Deliverable: Timely Status Reports**

14) Provide Progress Reports and Attend All Meetings including Steering Committee Meetings:

The Contractor will submit biweekly status reports during the planning stage of this initiative and shall be the monitoring Contractor during the course of the implementation project. These reports will discuss the project schedule in relation to the accepted work plan, describe accomplishments, identify potential problems and risks with proposed solutions, and other pertinent issues. The Contractor shall attend weekly project meetings with the Department and the implementation Contractor and will also attend the Department's Steering Committee meetings to keep management of the Department abreast of the planning activities, accomplishments, problems, risks and proposed solutions. Other meetings, as required, which the Contractor shall attend, will be set by the Department.

**Deliverable: Biweekly Status Reports & Attendance at Meetings**

15) Evaluate and Assist Implementation

The Contractor shall assist the Department with implementation issues that may arise with the implementation Contractor. As the monitoring Contractor, the resultant implementation Contractor must work as a liaison to facilitate and support the Department during implementation. This support includes, but is not limited to, professional advice and contributions of strategy for issue resolution, as well as review and analysis of data and implementing plans and documents.

**Deliverable: Evaluation Reports**

It is the Department and First Data's mutual understanding that inherent in the role of "consultant," for which First Data has been hired, are the traits of guiding and counseling. Through each of the deliverables outlined above, it is the Department's requirement that First Data provide guidance and counsel to the Department, with an emphasis on project direction and progress, cost issues, change order suggestions, Contractor disputes, implementation, Go/No Go recommendations and other project issues as they arise.

It is further the Department's understanding that the Contractor may utilize a subcontractor for some of the deliverables associated with this project. The identified subcontractor shall be Advantech Group, LLC of Glastonbury, Connecticut. Any change to the subcontractors being utilized under this contract shall be identified in writing by the Contractor to the Department, at least 30 days prior to utilization or discontinuation of said subcontractors.

#### **D. DEPARTMENT RESPONSIBILITIES**

The Department's responsibilities shall include:

- a) Project Management - A Project Manager/Team will be appointed by the Department and will be responsible for monitoring project progress. The Department's Project Manager or Team ("DPM") will have final authority to approve/disapprove project deliverables.
- b) Staff Coordination - The DPM will coordinate all necessary contacts between the Contractor and State staff.
- c) Approval of Deliverables - The DPM will review, evaluate, and approve all deliverables prior to the Contractor being released from further responsibility as to each deliverable.
- d) Policy Decisions - The Department retains final authority for making policy decisions affecting completion of this project. In addition, the Department shall:
  - (1) Monitor the Contractor's performance and request updates as appropriate
  - (2) Respond to written requests for policy interpretations
  - (3) Provide technical assistance to the Contractor, as necessary
  - (4) Allow access to Department automated databases as available and permitted
  - (5) Allow access to management reports and case files as appropriate
  - (6) Provide a project leader
  - (7) Schedule and hold regular project meetings with the Contractor
  - (8) Provide a process for, and facilitate open discussions with, staff and personnel to gather information regarding recommendations for improvement
  - (9) Provide data as required by the Contractor to perform the functions of the project
- e) Providing the Contractor with procurement templates, policies, procedures and staff to assist in the administrative side of the RFP development.

#### **E. REPORTING REQUIREMENTS**

The Contractor shall provide monthly progress reports in a format to be approved by the Department. These reports may include, but are not be limited to, qualitative and quantitative measures, narrative reporting of highlights and accomplishments, documentation of any programmatic challenges and corrective action plans, and results of client satisfaction surveys.

- a) The Contractor shall fully cooperate with the data collection and reporting requirements established by the Department and with any Department staff performing contract-monitoring functions.

#### F. BUDGET AND PAYMENT PROVISIONS

*JML*

The Department shall pay Contractor on a time and materials basis, but with the maximum project value as detailed herein not to exceed \$1,996,365.00. Contractor shall utilize the following cost allocation spreadsheet to determine appropriate utilization of staffing and hours and may shift hours between the deliverables, so long as the Contractor receives written permission from the Department for any alteration above or below 10% of the anticipated value of the deliverable. In no event shall the Department pay the Contractor for an improper utilization of time, nor shall the Department pay more than the maximum budget for the project, without appropriate change orders approved by the Department in accordance with Section G. of this contract.

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#	Tasks	Staff Position	Staffing Category (Example: Management, Consultants, Analysts)	Brief Description of Duties	Staff Hours	Hourly Rate	Cost
1	Project Work Plan [Deliverable: Project Work Plan]						
		Project Manager	Management	Revise and maintain workplan	210	\$175.00	\$36,750
					—	\$0.00	\$0
					—	\$0.00	\$0
					—	\$0.00	\$0
	Subtotal for Task 1				210		\$36,750
2	Develop an Approach for the Modernization Project [Deliverable: Modernization Project Solution Document]						
		Project Manager	Management	Develop deliverable and coordinate with the Department	40	\$175.00	\$7,000
					—	\$0.00	\$0
					—	\$0.00	\$0
					—	\$0.00	\$0
	Subtotal for Task 2				40		\$7,000
3	Develop Functional Requirements Document [Deliverable: Functional Requirements Document]						
		Project Manager	Management	Provide oversight to task and participate as needed	32	\$175.00	\$5,600
		Business Lead	Consultant	Lead task and deliverable development	328	\$125.00	\$41,000
		Business Consultant	Consultant	Provide subject matter expertise to task	328	\$110.00	\$36,080
		Requirement Devl Specialist 1	Consultant	Assist with requirements analysis	328	\$110.00	\$36,080
		MEGA Requirement Specialist 2	Consultant	Assist with requirements analysis	328	\$110.00	\$36,080
		Technical Architect	Consultant	Provide subject matter	102	\$175.00	\$17,850

		- IVR/DocMng		expertise to task			
		Technical Architect - Web Devl	Consultant	Provide subject matter expertise to task	88	\$165.00	\$14,520
					—	\$0.00	\$0
		Subtotal for Task 3			1534		\$187,210
4		Conduct Feasibility Study and Cost Benefit Analysis [Deliverable: Cost Benefit Analysis Document]					
		Project Manager	Management	Provide oversight to task and participate as needed	24	\$175.00	\$4,200
		Procurement Specialist	Consultant	Provide CT specific guidance to task	80	\$165.00	\$13,200
		Business Lead	Consultant	Provide subject matter expertise to task	24	\$125.00	\$3,000
		Technical Architect - IVR/DocMng	Consultant	Lead task and deliverable development	240	\$175.00	\$42,000
		Technical Architect - Web Devl	Consultant	Provide subject matter expertise to task	134	\$165.00	\$22,110
		Subtotal for Task 4			502		\$84,510
5		Identify and Prepare any Federal Planning Documents [Deliverable: Federal Planning Documents]					
		Project Manager	Management	Provide oversight to task and participate as needed	16	\$175.00	\$2,800
		Procurement Specialist	Consultant	Lead task and deliverable development	240	\$165.00	\$39,600
		Business Lead	Consultant	Provide subject matter expertise to task	40	\$125.00	\$5,000
		Business Consultant	Consultant	Provide subject matter expertise to task	84	\$110.00	\$9,240
		Technical Architect - IVR/DocMng	Consultant	Provide subject matter expertise to task	24	\$175.00	\$4,200
		Technical Architect - Web Devl	Consultant	Provide subject matter expertise to task	24	\$165.00	\$3,960
		Subtotal for Task 5			428		\$64,800
6		Prepare the Request for Proposals [Deliverable: Implementation of Request for					

Proposal]							
		Project Manager	Management	Provide oversight to task and participate as needed	32	\$175.00	\$5,600
		Procurement Specialist	Consultant	Lead task and deliverable development	126	\$165.00	\$20,790
		Business Lead	Consultant	Provide subject matter expertise to task	104	\$125.00	\$13,000
		Business Consultant	Consultant	Coordinate writing assignments and develop major sections	168	\$110.00	\$18,480
		Technical Architect - IVR/DocMng	Consultant	Provide subject matter expertise to task	106	\$175.00	\$18,550
		Technical Architect - Web Devl	Consultant	Provide subject matter expertise to task	124	\$165.00	\$20,460
		Subtotal for Task 6			660		\$96,880
7	Provide Procurement Assistance [Deliverable: Scoring Tool, Scoring Protocol]						
		Project Manager	Management	Provide oversight to task and participate as needed	112	\$175.00	\$19,600
		Procurement Specialist	Consultant	Provide CT specific guidance to task	184	\$165.00	\$30,360
		Business Lead	Consultant	Lead task and deliverable development	80	\$125.00	\$10,000
		Technical Architect - IVR/DocMng	Consultant	Provide subject matter expertise to task	0	\$175.00	\$0
		Technical Architect - Web Devl	Consultant	Provide subject matter expertise to task	70	\$165.00	\$11,550
		Subtotal for Task 7			446		\$71,510
8	Prepare Federal Planning Document's) Updates [Deliverable: Timely Federal Planning Document's) Updates to Identified Entities]						
		Procurement Specialist	Consultant	Create updated documents	80	\$165.00	\$13,200
					-	\$0.00	\$0
					-	\$0.00	\$0
					-	\$0.00	\$0
		Subtotal for Task 8			80		\$13,200



9	Develop Quality Assurance Procedures and Provide Monitoring [Deliverable: Monitoring Plan for Implementation of the Modernization Project]						
		Project Manager	Management	Lead task and deliverable development	48	\$175.00	\$8,400
		Business Lead	Consultant	Provide subject matter expertise to task	104	\$125.00	\$13,000
		Technical Architect - IVR/DocMng	Consultant	Provide subject matter expertise to task	68	\$175.00	\$11,900
		Technical Architect - Web Devl	Consultant	Provide subject matter expertise to task	85	\$165.00	\$14,025
	Subtotal for Task 9				305		\$47,325
10	Review Technical Systems Design [Deliverable: Technical Systems Design Evaluation Report]						
		Project Manager	Management	Provide oversight to task and participate as needed	0	\$175.00	\$0
		Technical Architect - IVR/DocMng	Consultant	Lead review of IVR and Document Mgmt components	264	\$175.00	\$46,200
		Technical Architect - Web Devl	Consultant	Lead review of web component	720	\$165.00	\$118,800
		Testing Lead	Consultant	Review for testability of components	80	\$125.00	\$10,000
	Subtotal for Task 10				1064		\$175,000
11	Perform Acceptance Testing and Pilot Evaluation [Deliverable: Testing Evaluation Criteria]						
		Business Lead	Consultant	Provide subject matter expertise to task	350	\$125.00	\$43,750
		Technical Architect - IVR/DocMng	Consultant	Provide subject matter expertise to task	96	\$175.00	\$16,800
		Technical Architect - Web Devl	Consultant	Provide subject matter expertise to task	120	\$165.00	\$19,800
		Testing Lead	Consultant	Lead task and deliverable development	1560	\$125.00	\$195,000

	Subtotal for Task 11				2126		\$275,350
1 2	Review All Project Deliverables [Deliverable: Project Deliverable Reports]						
		Project Manager	Management	Provide oversight to task and participate as needed	764	\$175.00	\$133,700
		Business Lead	Consultant	Provide subject matter expertise to task	1072	\$125.00	\$134,000
		Technical Architect - IVR/DocMng	Consultant	Provide subject matter expertise to task	0	\$175.00	\$0
		Technical Architect - Web Devl	Consultant	Provide subject matter expertise to task	192	\$165.00	\$31,680
		Testing Lead	Consultant	Provide subject matter expertise to task	204	\$125.00	\$25,500
	Subtotal for Task 12				2232		\$324,880
1 3	Project Status Reports [Deliverable: Project Status Reports]						
		Project Manager	Management	Prepare reports	192	\$175.00	\$33,600
					—	\$0.00	\$0
					—	\$0.00	\$0
					—	\$0.00	\$0
	Subtotal for Task 13				192		\$33,600
1 4	Preparation and Participation in all Meetings						
		Project Manager	Management	Attend meetings; manage resulting FDGS actions	328	\$175.00	\$57,400
		Business Lead	Consultant	Attend meetings; provide subject matter expertise	632	\$125.00	\$79,000
		Business Consultant	Consultant	Attend planning meetings; provide subject matter expertise	48	\$110.00	\$5,280
		Technical Architect - IVR/DocMng	Consultant	Attend meetings; provide subject matter expertise	778	\$175.00	\$136,150
		Technical Architect - Web Devl	Consultant	Attend meetings; provide subject matter expertise	404	\$165.00	\$66,660
	Subtotal for Task 14				2190		\$344,490
1 5	Evaluate and Assist Implementation [Deliverable:						

Evaluation Reports]						
	Project Manager	Management	Lead task; manage resulting actions	402	\$175.00	\$70,350
	Business Lead	Consultant	Provide subject matter expertise to task	986	\$125.00	\$123,250
	Technical Architect - Web Devl	Consultant	Provide subject matter expertise to task	244	\$165.00	\$40,260
	Subtotal for Task 15			1632		\$233,860
			<b>Subtotal Staff Costs:</b>			<b>\$1,996,365</b>

<b>Subtotal Non-staff Costs</b> - Provide a total of all non-staff costs here (itemization and detailed costs must be included in the Budget Narrative):						<b>\$0</b>
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**Total Costs: \$1,996,365**

## G. OPTIONAL TASK ORDERS/CHANGE ORDERS <sup>JMG</sup>

The Contractor authorizes its Project Manager to agree to minor modifications in the Project Work Plan or schedule of a project in response to the Department's requests. If the requested changes are within the Scope of Work, the Project Manager does not have to receive approval from the Contractor's corporate managers.

If changes to an existing task are required because of factors outside of the Contractor's control, the Contractor shall submit to the Department a change order request documenting the scope of the change, the staffing levels required to address the change, the hours needed to address the change and a total cost to the Department. Costs shall be computed by multiplying the hourly rates set forth above by the number of hours to be expended for each staffing category. The Contractor shall not be authorized to work on any change order unless and until the Department provides the Contractor approval in writing. The total value of change order work for the term of the contract may not exceed \$103,635.00. Change Order work not directly related to the scope of services contemplated herein may require authorization from the State of Connecticut Office of Policy and Management in order to amend the contract to appropriately utilize these additional funds. The maximum contract value, including the maximum project value of \$1,996,365.00, plus any optional task orders/change orders that may occur shall not exceed \$2,100,000.00.

## H. Additional Contractual Concerns

Contractor's cumulative liability for any loss or damage, from any cause whatsoever, will be limited to Five Million Dollars (\$5,000,000). Contractor shall be relieved of all liability where Contractor performs any Service in accordance with instructions provided by the Department and Contractor may rely on the accuracy of any information set forth in any such instructions.

Contractor WILL NOT BE LIABLE UNDER ANY THEORY FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES.

## PART II. MANDATORY TERMS AND CONDITIONS

The Contractor agrees to comply with the following mandatory terms and conditions.

### A. CLIENT-RELATED SAFEGUARDS

- 1. Inspection of Work Performed.** The Department or its authorized representative shall upon reasonable notice have the right to enter into the Contractor's premises, or such other places where duties under the contract are being performed, to inspect, to monitor or to evaluate the work being performed. The Contractor and all subcontractors must provide all reasonable facilities and assistance for Department representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. The Contractor shall disclose information on clients, applicants and their families directly related to the services as requested unless otherwise prohibited by federal or state law. Written evaluations pursuant to this section shall be made available to the Contractor.
- 2. Safeguarding Client Information.** The Department and the Contractor agree to safeguard the use, publication and disclosure of information on all applicants for and all clients who receive service under this contract with all applicable federal and state law concerning confidentiality.
- 3. Reporting of Client Abuse or Neglect.** The Contractor shall comply with all reporting requirements relative to client abuse and neglect, including but not limited to requirements as specified in Conn. Gen. Stat. §§ 17a-101 through 103, 19a-216, 46b-120 (related to children); Conn. Gen. Stat. § 46a-11b (relative to persons with mental retardation); and Conn. Gen. Stat. § 17b-407 (relative to elderly persons).

### B. CONTRACTOR OBLIGATIONS

## 1. Credits and Rights in Data

- (a) Unless expressly waived in writing by the Department, all documents, reports, and other publications for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the state and the Department and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify the Department, unless the Department or its agents co-authored said publication and said release is done with the prior written approval of the Commissioner of the Department. Any publication shall contain the following statement: "This publication does not express the views of the Department or the State of Connecticut. The views and opinions expressed are those of the authors." The Contractor or any of its agents shall not copyright Department data and information obtained under the terms and conditions of this contract, unless expressly authorized in writing by the Department. The Department or any of its agents shall not copyright Contractor data and information obtained under the terms and conditions of this contract, unless expressly authorized in writing by the Contractor. The Department may utilize data produced under the terms of this contract for any business purpose, so long as it does not infringe upon the intellectual property rights of the Contractor. The Department shall have the right to publish, duplicate, use and disclose all such data in compliance with applicable laws and for the purpose of receiving services hereunder. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Department of such data.
- (b) "Data" shall mean all results, technical information and materials developed and/or obtained in the performance of the services hereunder, including but not limited to all reports, surveys, plans, charts, recordings (video and/or sound), pictures, curricula, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the services performed hereunder.

## 2. Organizational Information, Conflict of Interest, IRS Form 990. Annually during the term of the contract, the Contractor shall submit to the Department the following upon request:

- (a) a copy of its most recent IRS Form 990 submitted to the federal Internal Revenue Service, and
- (b) its most recent Annual Report as filed with the Office of the Secretary of the State or such other information that the Department deems appropriate with respect to the organization and affiliation of the Contractor and related entities.

## 3. Federal Funds. The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Department shall specify all such requirements in Part I of this contract.

## 4. Audit Requirements. The Contractor shall provide for an annual financial audit acceptable to the Department for any expenditure of state-awarded funds made by the Contractor under the Contract. Such audit shall include management letters and audit recommendations. Upon reasonable notice and during normal business hours, the State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made. The Contractor will comply with federal and state single audit standards as applicable.

## 5. Prohibited Interest. The Contractor warrants that no state appropriated funds have been paid or will be paid by or on behalf of the Contractor to contract with or retain any company or person, other than bona fide employees working solely for the Contractor, to influence or attempt to influence an officer or employee of any state agency in connection with the awarding, extension, continuation, renewal, amendment, or modification of this agreement, or to pay or agree to pay any company or person, other than bona fide employees working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

## 6. Offer of Gratuities. By its agreement to the terms of this contract, the Contractor certifies that no elected or appointed official or employee of the State of Connecticut has or will benefit financially or materially from this contract. The

Department may terminate this contract if it is determined that gratuities of any kind were either offered or received by any of the aforementioned officials or employees from the Contractor or its agents or employees.

7. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this clause, to the Department on an annual basis in the appropriate fiscal report as specified in Part I of this contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor, its employees, Board members or members of the Contractor's governing body, and a related party include, but are not limited to:
  - (a) real estate sales or leases;
  - (b) leases for equipment, vehicles or household furnishings;
  - (c) mortgages, loans and working capital loans; and
  - (d) contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor.
8. **Lobbying.** The Contractor agrees to abide by state and federal lobbying laws, and further specifically agrees not to include in any claim for reimbursement any expenditures associated with activities to influence, directly or indirectly, legislation pending before Congress, or the Connecticut General Assembly or any administrative or regulatory body unless otherwise required by this contract.
9. **Suspension or Debarment.**
  - (a) Signature on Contract certifies the Contractor or any person (including subcontractors) involved in the administration of Federal or State funds:
    - (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental department or agency (Federal, State or local);
    - (2) within a three year period preceding this Contract, has not been convicted or had a civil judgment rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or Contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
    - (3) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the above offenses;
    - (4) has not within a three year period preceding this agreement had one or more public transactions terminated for cause or fault.
  - (b) Any change in the above status shall be immediately reported to the Department.
10. **Liaison.** Each party shall designate a liaison to facilitate a cooperative working relationship between the Contractor and the Department in the performance and administration of this contract.
11. **Subcontracts.** For purposes of this clause subcontractors shall be defined as providers of direct human services. Vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program. The subcontractor's identity, services to be rendered and costs shall be detailed in Part I of this contract. Notwithstanding the execution of this contract prior to a specific subcontractor being identified or specific costs being set, no subcontractor may be used or expense under this contract incurred prior to identification of the subcontractor or inclusion of a detailed budget statement as to subcontractor expense, unless expressly provided in Part I of this contract. No subcontractor shall acquire any direct right of payment from the Department by virtue of the provisions of this

clause or any other clause of this contract. The use of subcontractors, as provided in this clause, shall not relieve the Contractor of any responsibility or liability under this contract. The Contractor shall make available copies of all subcontracts to the Department upon request.

**12. Independent Capacity of Contractor.** The Contractor, its officers, employees, subcontractors, or any other agent of the Contractor in the performance of this contract will act in an independent capacity and not as officers or employees of the State of Connecticut or of the Department.

**13. Indemnification.**

- (a) The Contractor shall indemnify, defend and hold harmless the State of Connecticut and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all:
  - (1) claims arising directly, in connection with the contract, including the acts of commission or omission (collectively the "Acts") of the Contractor or Contractor Parties; and
  - (2) liabilities, damages, losses, costs and expenses, including but not limited to attorneys' and other professionals' fees, arising, directly, in connection with Claims, Acts or the contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this contract. The contractor's obligations under this section to indemnify, defend and hold harmless against claims includes claims concerning confidentiality of any part of or all of the bid or any records, and intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance of the contract.
- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such claims.
- (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (d) The Contractor shall carry and maintain at all times during the term of the contract, and during the time that any provisions survive the term of the contract, sufficient general liability insurance to satisfy its obligations under this contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the contract. The Contractor shall not begin performance until the delivery of the policy to the Agency.
- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- (f) This section shall survive the termination, cancellation or expiration of the Contract, and shall not be limited by reason of any insurance coverage.

**14. Choice of Law and Choice of Forum, Settlement of Disputes, Office of the Claims Commission.**

- (a) The Contractor agrees to be bound by the laws of the State of Connecticut and the federal government where applicable, and agrees that this contract shall be construed and interpreted in accordance with Connecticut law and Federal law where applicable.
- (b) Any dispute concerning the interpretation or application of this contract shall be decided by the Commissioner of the Department or his/her designee whose decision shall be final subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the commissioner pursuant to this provision, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its

appeal. Pending final resolution of a dispute, the Contractor and the Department shall proceed diligently with the performance of the contract.

- (c) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings except as authorized by that Chapter in any State or Federal Court in addition to or in lieu of said Chapter 53 proceedings.

15. **Compliance with Law and Policy.** Contractor and Department shall comply with all pertinent provisions of local, state and federal laws and regulations and procedures applicable to Contractor's programs as specified in this contract. The Department shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Department has responsibility to promulgate or enforce. Contractor shall comply with Departmental policies while performing services under this contract on the Department's premises or while remotely accessing the Department's systems.

16. **Facility Standards and Licensing Compliance.** The Contractor will comply with all applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

17. **Reports.** The Contractor shall provide the Department with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor agrees to provide the Department with such reports as the Department requests.

18. **Delinquent Reports.** The Contractor will submit required reports by the designated due dates as identified in this agreement. After notice to the Contractor and an opportunity for a meeting with a Department representative, the Department reserves the right to withhold payments for services performed under this Contract if the Department has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this agreement or previous agreements for similar or equivalent services the Contractor has entered into with the Department.

19. **Record Keeping and Access.** The Contractor shall maintain books, records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this contract. Upon reasonable notice these records shall be subject during normal business hours to monitoring, inspection, review or audit by authorized employees or agents of the state or, where applicable, federal agencies. The Contractor shall retain all such records concerning this contract for a period of three (3) years after the completion and submission to the state of the Contractor's annual financial audit.

20. **Workforce Analysis.** The Contractor shall provide a workforce analysis affirmative action report related to employment practices and procedures.

21. **Litigation.**

- (a) The Contractor shall provide written notice to the Department of any litigation that materially relates to the services directly or indirectly financed under this contract or that has the potential to significantly impair the ability of the Contractor to fulfill the terms and conditions of this contract, including but not limited to financial, legal or any other situation which may prevent the Contractor from meeting its obligations under the contract.

- (b) The Contractor shall provide written notice to the Department of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other provisions of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

C. ALTERATIONS, CANCELLATION AND TERMINATION



### 1. Contract Revisions and Amendments.

- (a) The Contractor shall submit to the Department in writing any proposed revision to the contract and the Department shall notify the Contractor of receipt of the proposed revision.
- (b) Contract amendments must be in writing and shall not be effective until executed by both parties to the contract, and, where applicable, approved by the Attorney General.
- (c) No amendments may be made to a lapsed contract.

### 2. Contract Reduction.

- (a) The Department reserves the right to reduce the Contracted amount of compensation at any time in the event that:
  - (1) the Governor or the Connecticut General Assembly rescinds, reallocates, or in any way reduces the total amount budgeted for the operation of the Department during the fiscal year for which such funds are withheld; or
  - (2) federal funding reductions result in reallocation of funds within the Department.
- (b) The Contractor and the Department agree to negotiate on the implementation of the reduction within thirty (30) days of receipt of formal notification of intent to reduce the contracted amount of compensation from the Department. If agreement on the implementation of the reduction is not reached within 30 calendar days of such formal notification and a contract amendment has not been executed, the Department may terminate the contract sixty (60) days from receipt of such formal notification. The Department will formally notify the Contractor of the termination date.

### 3. Default by the Contractor.

- (a) If the Contractor defaults as to, or otherwise fails to comply with, any of the conditions of this contract the Department may:
  - (1) withhold payments until the default is resolved to the satisfaction of the Department;
  - (2) temporarily or permanently discontinue services under the contract;
  - (3) require that unexpended funds be returned to the Department;
  - (4) assign appropriate state personnel to execute the contract until such time as the contractual defaults have been corrected to the satisfaction of the Department;
  - (5) terminate this contract;
  - (6) any combination of the above actions.
  - (7) take such other reasonable actions as may be deemed appropriate for the best interests of the state
- (b) In addition to the rights and remedies granted to the Department by this contract, the Department shall have all other rights and remedies granted to it by law in the event of breach of or default by the Contractor under the terms of this contract.
- (c) Prior to invoking any of the remedies for default specified in this paragraph except when the Department deems the health or welfare of service recipients is endangered as specified in of this contract or has not met requirements as specified in this contract, the Department shall notify the Contractor in writing of the specific facts and circumstances constituting default or failure to comply with the conditions of this contract and proposed remedies. Within thirty (30) days of receipt of this notice, the Contractor shall correct any contractual defaults specified in the notice and submit written documentation of correction to the satisfaction of the

Department or request in writing a meeting with the commissioner of the Department or his/her designee. Any such meeting shall be held within five (5) business days of the written request. At the meeting, the Contractor shall be given an opportunity to respond to the Department's notice of default and to present a plan of correction with applicable time frames. Within five (5) business days of such meeting, the commissioner of the Department shall notify the Contractor in writing of his/her response to the information provided including acceptance of the plan of correction and, if the commissioner finds continued contractual default for which a satisfactory plan of corrective action has not been presented, the specific remedy for default the Department intends to invoke. This action of the Commissioner shall be considered final.

- (d) If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the agreed upon plan of correction, the Department may proceed with default remedies.

4. **Non-enforcement Not to Constitute Waiver.** The failure of either party to insist upon strict performance of any terms or conditions of this agreement shall not be deemed a waiver of the term or condition or any remedy that each party has with respect to that term or condition nor shall it preclude a subsequent default by reason of the failure to perform.

5. **Cancellation and Recoupment.**

- (a) This agreement shall remain in full force and effect for the entire term of the contract period, above, unless either party provides written notice 30 days or more from the date of termination, except that no cancellation by the Contractor may be effective for failure to provide services for the agreed price or rate and cancellation by the Department shall not be effective against services already rendered, so long as the services were rendered in compliance with the contract during the term of the contract. The Contractor may terminate this Agreement or suspend all or a portion of its services immediately if (i) the Department's performance of its obligations or use of the services violates any federal, state or local law, rule or regulation; (ii) it reasonably determines through documentation or other substantive evidence that a material adverse change has occurred in the Department's financial condition; or (iii) the Department fails to pay any amount due sixty (60) days of its due date.

- (b) In the event the health or welfare of the service recipients is endangered, the Department may cancel the contract and take any immediate action without notice it deems appropriate to protect the health and welfare of service recipients. The Department shall notify the Contractor of the specific reasons for taking such action in writing within five (5) business days of cancellation. Within five (5) business days of receipt of this notice, the Contractor may request in writing a meeting with the commissioner of the Department or his/her designee. Any such meeting shall be held within five (5) business days of the written request. At the meeting, the Contractor shall be given an opportunity to present information on why the Department's actions should be reversed or modified. Within five (5) business days of such meeting, the Commissioner of the Department shall notify the Contractor in writing of his/her decision upholding, reversing or modifying the action of the Department. This action of the Commissioner shall be considered final.

- (c) The Department reserves the right to cancel the contract without prior notice when the funding for the contract is no longer available.

- (d) The Department reserves the right to recoup any deposits, prior payment, advance payment or down payment made if the contract is terminated by either party. Allowable costs incurred to date of termination for operation or transition of program(s) under this contract shall not be subject to recoupment. The Contractor agrees to return to the Department any funds not expended in accordance with the terms and conditions of the contract and, if the Contractor fails to do so upon demand, the Department may recoup said funds from any future payments owing under this contract or any other contract between the State and the Contractor.

6. **Equipment.** In the event this Contract is terminated or not renewed, the Department reserves the right to recoup any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract. For purposes of this provision, equipment means tangible personal property with a normal useful life of at least one year and a value of at least \$5,000. Equipment shall be considered purchased from Contractor funds and not from Department funds if the equipment is purchased for a program that has other sources of income equal to or greater than the equipment purchase price.

7. **Termination.** All notices of termination as defined in the subsections below shall be signed by the Contract Administrator and/or designee, shall specify a date of termination and shall be delivered to the Contractor no less than 30 days prior to the specified date of termination.

a. *Termination for Convenience:*

- i. The Department may terminate performance of work under the Contract in whole or in part whenever for any reason the Department shall determine that such termination is in the best interest of the Department and/or the State of Connecticut.
- ii. In the event that the Department elects to terminate the Contract pursuant to this provision, the Contract Administrator and/or designee shall notify the Contractor by certified mail, return receipt requested. Termination shall be effective as of the close of business on the date specified in the notice.

b. *Termination for Financial Instability:*

- i. In the event that the Contractor becomes financially unstable to the point of threatening the ability of the Department to obtain the services provided for under this contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets, the Department may, at its option, immediately terminate this contract.
- ii. In the event the Department elects to terminate this contract under this provision, it shall do so by the Contract Administrator and/or designee sending notice of termination to the Contractor by certified mail, return receipt requested, specifying the date of termination.
- iii. In the event of the filing of a petition in bankruptcy by or against a principal subcontractor, the Contractor shall immediately so advise the Department. The Contractor shall ensure that all tasks related to the subcontract are performed in accordance with the terms of the contract and agrees that the filing of a petition in bankruptcy by or against a subcontractor shall, in no way, relieve Contractor of its duties under this contract.

c. *Procedure for Termination:*

In addition to the requirements set forth above, upon delivery by certified mail to the Contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor shall:

- i. Stop work under the contract on the date and to the extent specified in the Notice of Termination.
- ii. If the Department so directs in writing, terminate all subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination or assign to the Department in the manner and to the extent directed by the Contract Administrator all of the right, title, and interest of the Contractor under the subcontracts not so terminated, in which case the Department shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such subcontracts.
- iii. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.
- iv. Be entitled to payment for services rendered through the effective date of termination.

8. **Transition after Termination or Expiration of Contract.** In the event that this contract is terminated for any reason except where the health and welfare of service recipients is endangered or if the Department does not offer the Contractor a new contract for the same or similar service at the contract's expiration, the Contractor will assist in the orderly transfer of clients served under this contract as required by the Department and will assist in the orderly cessation of operations under this contract for a period of three (3) months and at the Department's expense. Prior to incurring expenses related to the orderly transfer or continuation of services to service recipients beyond the terms of the contract, the Department and the Contractor agree to negotiate a termination amendment to the existing agreement to address current program components and expenses, anticipated expenses necessary for the orderly transfer of service recipients and changes to the current program to address service recipient needs. The Contractual agreement may be amended as necessary to assure transition requirements are met during the term of this contract. If the transition cannot be concluded during this term, the Department and the Contractor may negotiate an amendment to extend the term of the current contract until the transition may be concluded.
9. **Program Cancellation.** Where applicable, the cancellation or termination of any individual program or services under this Contract will not, in and of itself, in any way affect the status of any other program or service in effect under this Contract.
10. **Mergers and Acquisitions.**
  - (a) This Agreement may not be assigned (voluntarily or by operation of law) by either party without prior written consent from the other party, which will not be unreasonably withheld; provided, however, consent is not needed for either party to assign this Agreement to an affiliate or subsidiary, however notice shall be given as soon as Contractor becomes aware of the merger or acquisition. Any assignment in violation of this subsection will be deemed null and void. This Agreement will extend to and be binding upon any permitted successors and assigns.
  - (b) Contractor shall provide the Department with notice of any fundamental changes in corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility within (60) sixty days.
  - (c) The Contractor shall comply with requests for documentation deemed necessary by the Department to determine whether the Department will provide prior written agreement. The Department shall notify the Contractor of such determination not later than forty-five (45) business days from the date the Department receives such requested documentation.

#### D. STATUTORY AND REGULATORY COMPLIANCE

##### 1. Health Insurance Portability Act of 1996 ("HIPAA").

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance "with all applicable federal and state law regarding confidentiality, which includes but is not limited to ("HIPAA"), more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; *and*
- (c) The State of Connecticut Department named on page 1 of this Contract (hereinafter "Department") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; *and*
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103; *and*
- (e) The Contractor is a "business associate" of the Department, as that term is defined in 45 C.F.R. § 160.103; *and*

- (f) The Contractor and Department agree to the following in order to ensure compliance with the HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
- (1) "Business Associate" shall mean the Contractor.
  - (2) "Covered Entity" shall mean the Department of the State of Connecticut named on page 1 of this Contract.
  - (3) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
  - (4) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
  - (5) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
  - (6) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
  - (7) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
  - (8) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
  - (9) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
  - (10) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
  - (11) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
  - (12) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and parts 164, subpart A and C.
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
  - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
  - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
  - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
  - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
  - (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the

same restrictions and conditions that apply through this Section of this Contract to Business Associate with respect to such information.

- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
  - (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to make PHI available for amendment pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
  - (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
  - (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
  - (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with paragraph 1 of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
  - (12) Business Associate agrees to comply with any state law that is more stringent than the Privacy Rule.
- (i) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
  - (2) Specific Use and Disclosure Provisions
    - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
    - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
    - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (j) Obligations of Covered Entity.
- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
  - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (l) Term and Termination.
- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
  - (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
    - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
    - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
    - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
  - (3) Effect of Termination
    - (A) Except as provided in (l)(2) above, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
    - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction

of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) **Miscellaneous Provisions.**

- (1) **Regulatory References.** A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
  - (2) **Amendment.** The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
  - (3) **Survival.** The respective rights and obligations of Business Associate shall survive the termination of this Contract.
  - (4) **Effect on Contract.** Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
  - (5) **Construction.** This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
  - (6) **Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, Contractors or agents, or any third party to whom Business Associate has disclosed PHI pursuant to this Contract. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
  - (7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards, or other expenses, of any kind or nature whatsoever, including, without limitation, attorney's fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this Section of the Contract.
2. **Americans with Disabilities Act of 1990.** This clause applies to those Contractors which are or will come to be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101-12189 and §§ 12201-12213) (Supp. 1993); 47 USC §§ 225, 611 (Supp. 1993). During the term of the Contract, the Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it will hold the state harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this Act. As applicable, the Contractor agrees to abide by provisions of § 504 of the Federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
  3. **Utilization of Minority Business Enterprises.** It is the policy of the state that minority business enterprises should have the maximum opportunity to participate in the performance of government Contracts. The Contractor agrees to use best efforts consistent with 45 C.F.R. §§ 74.160 *et seq.* (1992) and paragraph 9 of Appendix G thereto for the administration of programs or activities using HHS funds; and §§ 13a-95a, 4a-60 to 4a-62, 4b-95(b), and 4a-60q of the Connecticut General Statutes to carry out this policy in the award of any subcontracts.
  4. **Priority Hiring.** This section is intentionally omitted as it is inapplicable to the nature of this contract.
  5. **Non-discrimination Regarding Sexual Orientation.** Unless otherwise provided by Conn. Gen. Stat. § 46a-81p, the Contractor agrees to the following provisions required pursuant to § 4a-60a of the Connecticut General Statutes:



- (a) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
- (2) the Contractor agrees to provide each labor union or representatives of workers with which such Contractor has a collective bargaining agreement or other Contract or understanding and each vendor with which such Contractor has a Contract or understanding a notice to be provided by the commission on human rights and opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
- (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to § 46a-56 of the Connecticut General Statutes;
- (4) the Contractor agrees to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts concerning the employment practices and procedures of the Contractor which relate to provisions of this section and § 46a-56 of the Connecticut General Statutes.

(b) The Contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a Contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with § 46a-56 of the Connecticut General Statutes provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

**6. Nondiscrimination and Affirmative Action Provisions in Contracts of the State and Political Subdivisions Other Than Municipalities.** The Contractor agrees to comply with provisions of § 4a-60 of the Connecticut General Statutes:

- (a) Every Contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions:
  - (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved;
  - (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission;
  - (3) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other Contract or understanding and each vendor with which such Contractor has a Contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

- (4) the Contractor agrees to comply with each provision of this section and Conn. Gen. Stat. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to Conn. Gen. Stat. §§ 46a-56, 46a-68e and 46a-68f;
  - (5) the Contractor agrees to provide the commission of human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and Conn. Gen. Stat. § 46a-56. If the Contract is a public works Contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
- (b) For the purposes of this section, “minority business enterprise” means any small Contractor or supplier of materials fifty-one per cent or more of capital stock, if any, or assets of which is owned by a person or persons:
- (1) who are active in the daily affairs of the enterprise;
  - (2) who have the power to direct the management and policies of the enterprise; and
  - (3) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. § 49-60g.
- (c) For the purposes of this section, “good faith” means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. “Good faith efforts” shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements. Determinations of the Contractor’s good faith efforts shall include but shall not be limited to the following factors: The Contractor’s employment and subcontracting policies, patterns and practices; affirmative action advertising; recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (e) Contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a Contract with the state and such provision shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.
7. **Government Function; Freedom of Information.** If the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contract is for the performance of a governmental function, as that term is defined in Conn. Gen. Stat. § 1-200(11), the Department is entitled to receive a copy of the records and files related to the Contractor’s performance of the governmental function, and may be disclosed by the Department pursuant to the Freedom of Information Act.
8. **Whistleblowing.** This Agreement is subject to the provisions of § 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee’s disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Agreement. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day’s continuance of the violation shall be deemed to be a separate and distinct offense. The State may